

Disciplinary and Other FINRA Actions

Firms Expelled, Individuals Sanctioned

Hedge Fund Capital Partners, LLC (CRD® #113326, Brooklyn, New York) and Howard Gordon Jahre (CRD #2238671, Registered Principal, New York, New York). The firm was expelled from FINRA membership and Jahre was barred from association with any FINRA® member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision, which was appealed to the Securities and Exchange Commission (SEC) but subsequently withdrawn. The sanctions were based on findings that the firm and Jahre distributed exaggerated, misleading and unbalanced institutional sales materials in the form of emails from Jahre. The firm also distributed additional unbalanced institutional sales materials, and failed to retain institutional sales materials. The findings stated that the firm and Jahre allowed unregistered persons to act in registered capacities, allowed a registered representative to “park” her license at the firm, employed a statutorily disqualified individual, and willfully filed misleading Uniform Applications for Securities Industry Registration or Transfer (Forms U4) in connection with the firm’s employment of a statutorily disqualified individual. The findings also stated that the firm failed to retain emails and instant messages, and failed to establish and maintain an adequate supervisory system and failed to establish, maintain, and enforce written supervisory procedures (WSPs) with regard to email and instant messaging retention. The firm also did not hold an annual compliance meeting. FINRA found that the firm and Jahre acted unethically by allowing a hedge fund tenant to pay its rent to the firm with soft dollars, in violation of the tenant’s offering memorandum, and that the firm and Jahre provided false responses to numerous FINRA requests for information. ([FINRA Case #2006004122402](#))

Oakbrook Investment Brokers, Inc. (CRD #22133, Villa Park, Illinois) and Robert George Stevens (CRD #720687, Registered Principal, Villa Park, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was expelled from FINRA membership. Stevens was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, the firm and Stevens consented to the described sanctions and to the entry of findings that in preparation for a FINRA examination, Stevens backdated continuing education (CE) test forms registered representatives had submitted and placed them in binders that were made part of the firm’s books and records and were presented to FINRA in response to its request. Stevens knew that the dates he affixed to the forms were false, and knew that his statement to the FINRA examiner regarding the authenticity of the CE materials was also false. The firm, acting through Stevens, failed to develop a written Firm

Reported for December 2012

FINRA has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

Element CE training plan, and failed to evaluate and prioritize the firm's training needs annually. The findings also stated that firm representatives sold at least \$1,284,500 worth of units of an offering to customers. Prior to executing these transactions, the firm, acting through Stevens, failed to conduct adequate due diligence of the offering, and failed to ensure that all of the customers who purchased units of the offering were suitable for those purchases. The offering failed to raise the minimum required, and all funds were returned to investors. The firm and Stevens failed to preserve any documentation showing that each of its customers who had purchased units of the offering and tendered funds received a return of their funds. Stevens assumed that the funds were returned to customers without any documentation to support the assumption. The findings also included that despite knowing that firm representatives were using unapproved email addresses for securities-related email communications, the firm, acting through Stevens, allowed at least one of the representatives to continue to use an unapproved email address. The firm, acting through Stevens, failed to review any of its representatives' email correspondence that the firm actually did capture through its third-party service, and failed to review all other correspondence of the firm's representatives.

FINRA found that the firm, acting through Stevens, failed to prepare an accurate general ledger, trial balances and net capital calculations for two dates. The inaccuracies were the result of the firm's and Stevens' failure to properly accrue its liabilities, and reflect liabilities and assets on its general ledger and balance sheet. The firm, acting through Stevens, filed an inaccurate Financial and Operations Combined Uniform Single (FOCUS) Report Part IIA for a quarter. FINRA also found that the firm, acting through Stevens, failed to conduct an adequate independent test of its Anti-Money Laundering (AML) program for three calendar years and failed to arrange for an independent test for the firm's compliance with the AML rules one year. The firm, acting through Stevens, failed to open and download Financial Crimes Enforcement Network (FinCEN) 314(a) Requests, and failed to evidence any searches of its records to determine if it maintained accounts for, or engaged in transactions with, individuals or entities listed on requests from FinCEN. In addition, FINRA determined that the firm, acting through Stevens, failed to evidence the preparation of the test for the firm's system of supervisory policies and procedures, failed to prepare NASD Rules 3012 and 3013 Reports and FINRA Rule 3130 Reports for six years, and failed to prepare and sign the annual chief executive officer (CEO) Supervisory Certification for six years. Moreover, FINRA found that the firm, acting through Stevens, first notified FINRA of the need for the Limited Size and Resources exemption on a certain date, which required the firm to submit notifications of its reliance on the exemption within 30 days and annually after that date. The firm, acting through the Stevens, did not make any annual notifications for three years, and failed to file a second notification of its reliance on the exception. Furthermore, FINRA found that the firm, acting through Stevens, failed to promptly amend its FINRA Contact Information (FCI) after a person left the firm's employment, conduct an annual review of its FCI by the 17th business day one year, failed to identify any secondary emergency contact person on its FCI, failed to conduct an annual review of its Business Continuity Plans (BCP)

and update it to show any material changes for four years. The findings also stated that the firm, acting through Stevens, willfully failed to timely amend its Uniform Application for Broker-Dealer Registration (Form BD), Uniform Branch Office Registration Form (Form BR) and a firm representative's Form U4. The firm failed to maintain current account records and to update account information for numerous customer accounts within 36 months of the date the information was last recorded. The findings also included that the firm, acting through Stevens, knew that representatives were engaged in outside business activities, but failed to require representatives to disclose their outside business activities in writing, as NASD Rule 3030 and the firm's WSPs required. ([FINRA Case #2010021010901](#))

Firm Suspended, Individual Sanctioned

ACAP Financial Inc. (CRD #7731, Salt Lake City, Utah) and Gary Hume (CRD #1216949, Registered Principal, Syracuse, Utah). The firm was fined \$100,000, required to revise its WSPs, and to retain an independent consultant to review and approve the procedures. The firm was suspended from receiving and liquidating unregistered penny stocks until the procedures are approved by the consultant and implemented. Hume was fined \$25,000, suspended from association with any FINRA member in any capacity for six months and required to requalify before acting in any capacity requiring qualification. The NAC imposed the sanctions following call for review of an OHO decision. The sanctions were based on findings that the firm, through a registered representative, sold more than 27 million unregistered shares of an entity to the public, resulting in proceeds of more than \$46,000. The findings stated that the firm and Hume, as its compliance officer, failed to take adequate measures to prevent the registered representative from selling the unregistered shares to the public. The firm and Hume relied on the lack of a restrictive legend on the stock certificates and the clearance of the stock through the transfer agent in making the determination that shares were freely tradable. The findings also stated that despite "red flags" that the stock sales may have been part of an illegal distribution, the firm and Hume failed to take steps to ensure that the registered representative ascertained the information necessary to determine whether the unregistered shares could be sold in compliance with Securities Act Section 5. Although Hume was responsible for creating and maintaining the firm's WSPs, it did not have written or formal procedures regarding restricted stock transactions or the receipt of stock certificates, given its business model. The firm's procedures did not provide any guidance on determining whether the stock was freely tradable.

The decision has been appealed to the SEC and the sanctions are not in effect pending consideration of the appeal. ([FINRA Case #2007008239001](#))

Firms Fined, Individuals Sanctioned

BPU Investment Management Inc. (CRD #17058, Pittsburgh, Pennsylvania) and Rick Eugene Pierchalski (CRD #818958, Registered Principal, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000, fined \$10,000, jointly and severally with Pierchalski, and agreed to retain an independent consultant to conduct a comprehensive review of the adequacy of the firm's policies, systems and procedures (written and otherwise) and training related to registration of firm personnel, recordkeeping, AML policies and procedures, and compliance with Section 5 of the Securities Act of 1933, including the firm's practices regarding the sale of unregistered securities. Pierchalski was fined an additional \$5,000 and suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the findings, the firm and Pierchalski consented to the described sanctions and to the entry of findings that the firm, acting through Pierchalski, its chief compliance officer (CCO) and AML compliance officer (AMLCO), allowed an associated person to perform duties that required registration as a principal before he was so registered. The findings stated that the firm, acting through Pierchalski and other associated persons, prepared a certification page as part of a year's AML test that contained an inaccurate date and was provided to FINRA staff during a routine exam. The findings also stated that the firm, acting through Pierchalski, failed to develop and implement a written AML program reasonably designed to ensure its compliance with the Bank Secrecy Act. Among other things, the firm failed to monitor, detect, and investigate suspicious transactions and determine whether to file a suspicious activity report (SAR) in the face of multiple red flags in connection with certain penny stock transactions a customer effected in his account and similar transactions effected by that customer's relatives and business associates in their accounts. The firm failed to conduct adequate due diligence or monitoring of the activity in the accounts despite those red flags and the firm's procedures, which required Pierchalski, the AMLCO, to investigate suspicious transactions. The firm did not have access to any mechanism (e.g., exception reports or the like) to monitor for or detect patterns in low-priced securities, including deposits or liquidations over time or among multiple accounts. The findings also included that the firm sold approximately 69 million shares of a low-priced stock of issuers. The transactions generated proceeds of approximately \$271,000. The securities sold were not subject to a registration statement, and the securities and transactions were not otherwise exempt from registration. Despite certain questionable circumstances surrounding the sales (e.g., substantial deposits of the same low-priced securities in related accounts at the firm followed shortly by liquidation of the shares), the firm failed to conduct a searching inquiry to ensure that the sales did not violate Section 5 of the Securities Act of 1933.

The suspension is in effect from November 19, 2012, through February 18, 2013. ([FINRA Case #2010024993502](#))

GFI Securities LLC (CRD #19982, New York, New York), Michael Scott Babcock (CRD #2450869, Registered Principal, Westport, Connecticut), Donald Patrick Fewer (CRD #1415123, Registered Principal, Colts Neck, New Jersey), Stephen Falletta (CRD #2880335, Registered Representative, Colts Neck, New Jersey), Laine Dale Steinberg (CRD #2376426, Registered Representative, West Harrison, New York) submitted Offers of Settlement in which the firm was censured and fined \$2,100,000, Babcock was fined \$100,000 and suspended from association with any FINRA member in any capacity for two months, Fewer was fined \$100,000 and suspended from association with any FINRA member in any supervisory capacity for 30 business days, Falletta was fined \$200,000 and suspended from association with any FINRA member in any capacity for two months, and Steinberg was fined \$125,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that a client sought to reduce its brokerage costs by proposing that the broker it used to effect certain credit default swaps (CDS) forgo charging the client commissions when it was the counterparty whose bid had been hit or whose offer had been lifted by the other counterparty. The findings stated that through a series of communications, Steinberg and a broker at another member firm coordinated their respective firms' responses to the proposal and discussed an alternative fee schedule that might be proposed to the client. The broker convinced GFI to give the client aggressor-only terms on CDS index transactions and CDSs associated with a particular country, rather than the blanket concession the client requested. The findings also stated that another client also sought aggressor-only terms on CDS transactions from GFI and other CDS brokers. Steinberg and Falletta coordinated GFI's response to the client with another broker's response on his firm's behalf, so the client did not get the blanket aggressor-only terms it had sought. The findings also included that other clients proposed a new fee schedule or reduction of fees on CDS transactions. The proposals precipitated a flurry of communications among brokers at affected firms, including Babcock and others at GFI, to collaborate with competitors to defeat the clients' proposals. One client circulated a modified proposal that provided for higher commissions than its original proposal, which GFI and the other firms accepted. The other client agreed to accept price reductions that were smaller than it had originally proposed.

FINRA found that through these numerous communications, GFI sought to frustrate its customers' efforts to obtain brokerage services at rates reflecting a *bona fide* competitive market. FINRA also found that, through these same communications, Babcock, Fewer, Falletta and Steinberg sought to frustrate GFI's customers' efforts to obtain brokerage services at rates reflecting a *bona fide* competitive market. FINRA also found that Babcock and Fewer knew, or ignored red flags indicating, that GFI's registered representatives under their supervision including Steinberg and Falletta, were engaging in improper communication with firm competitors regarding CDS brokerage rates but failed to take adequate steps to prevent them from doing so. Babcock personally participated in such improper communications. In addition, FINRA determined that GFI's WSPs were not

reasonably designed to ensure compliance with Interpretative Material 2110-5 and other securities law requirements concerning anti-competitive conduct. The firm's WSP section concerning anti-competitive or collusive conduct lacked specificity and did not provide for ongoing systematic reviews of brokers' electronic and telephonic communications for that purpose. The firm failed to review employees' Bloomberg messages until a certain date and failed to document that it conducted any supervisory reviews of other instant messaging forms of communication.

Babcock's suspension was in effect from April 16, 2012, through June 15, 2012. Fewer's suspension was in effect from April 16, 2012, through May 25, 2012. Falleta's suspension was in effect from April 16, 2012, through June 15, 2012. Steinberg's suspension was in effect from April 16, 2012, through July 15, 2012. ([FINRA Case #2006005158309](#))

Firms Fined

A.B. Watley Direct, Inc. (CRD #18663, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to employ two registered general securities principals and did not have a waiver from FINRA with respect to this requirement. The findings stated that when the firm was engaged in an options business, it failed to employ a registered options and securities futures principal (ROSFP). The findings also stated that the firm failed to perform independent testing of its AML program during a calendar year. ([FINRA Case #2010021157902](#))

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade execution time for S1 inter-dealer transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securities to TRACE, failed to report S1 inter-dealer transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time and failed to show the correct execution time on the memoranda of brokerage orders. ([FINRA Case #2012031675501](#))

Electronic Transaction Clearing, Inc. (CRD #146122, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to the Order Audit Trail System (OATS™) under two market participant identifiers (MPIDs). The findings stated that the ROEs the firm failed to report for one MPID represented almost its entire OATS reporting obligation for that MPID during the review period. ([FINRA Case #2011027293801](#))

Falcon Research, Inc. (CRD #13115, Clearwater, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted a person registered solely as a general securities principal to prepare, author and approve a research report that the firm issued. The findings stated that the report contained a rating but failed to define the meaning of each rating used in its rating system. The report failed to disclose the percentage of all securities the firm rated, to which the firm would assign a buy, hold/neutral or sell rating, or to disclose the percentage of subject companies within each of these three categories for whom the firm had provided investment-banking services within the previous 12 months. The report referred to important disclosures that are located at the end of the document, however, the disclosure was not prominent. The findings also stated that the report failed to contain research analyst certifications required by SEC Regulation AC. The report stated that the research resources used to prepare the report were believed to be accurate, but does not certify that all of the views expressed in the report accurately reflect the research analyst's views about the subject company. The report certified that the research analyst did not receive direct compensation in exchange for providing the recommendations contained in the report and that the analyst did not receive direct compensation from any of the companies mentioned in the report; the report, however, failed to certify that the analyst did not receive any indirect compensation. ([FINRA Case #2012030485001](#))

Finance 500, Inc. (CRD #12981, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. The firm has made full restitution totaling \$838.25 in regard to the transactions at issue. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to execute orders fully and promptly. The findings stated that in some transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2009020667301](#))

FTN Financial Securities Corp. (CRD #46346, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report S1 transactions in TRACE-eligible corporate securities to TRACE within 15 minutes of the execution time. ([FINRA Case #2011029144201](#))

GFI Securities LLC (CRD #19982, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and failed to report each of these transactions to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) with a short sale

modifier, and failed to report to the FNTRF the correct symbol indicating the capacity in which the firm executed transactions in reportable securities. The findings stated that the firm failed to report to the FNTRF the correct trade report modifier indicating whether the trade occurred at a price based on an average weighting or another special pricing formula for some last sale reports of transactions in reportable securities. The findings also stated that the firm failed, within 30 seconds after execution, to transmit to the FNTRF last sale reports of transactions in designated securities. ([FINRA Case #2009017714001](#))

Highlander Capital Group, Inc. (CRD #19074, Short Hills, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. A lower fine was imposed after considering, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve certain business-related emails that were sent to its Bloomberg terminal. The finding stated that the firm used its Bloomberg email address to receive information from third parties concerning the financial markets; it was not used to communicate with customers. The findings also stated that the firm's supervisory system and written procedures were not reasonably designed to ensure compliance with the foregoing email-retention requirements. The firm failed to establish any WSPs relating to the retention of electronic communications, including business-related electronic communications its Bloomberg terminal received. ([FINRA Case #2011025562401](#))

Hornor, Townsend & Kent, Inc. (CRD #4031, Horsham, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system and establish, maintain, and enforce WSPs reasonably designed to achieve compliance with applicable rules and regulations concerning subsequent transactions in direct application business involving previously purchased mutual funds. The findings stated that the firm's system and procedures failed to provide for the review and endorsement by a registered principal of all direct application subsequent transactions involving previously purchased mutual funds, including those in 529 college savings plans; and a suitability review of all direct application subsequent transactions involving previously purchased mutual funds, including procedures designed to review the source of funds and review of sales charges (breakpoints). The firm did not supervise subsequent transactions for direct application business in previously purchased mutual funds. Rather, it relied on its representatives to make the appropriate suitability determination when recommending any subsequent transactions. The findings also stated that the firm relied on the fact that one of its principals had conducted a supervisory review for the initial direct application mutual fund transaction. There was, however, no supervisory review by a firm principal of any subsequent transactions in previously purchased mutual funds. Firm principals did not receive or review account statements for direct application products. The findings also included that the firm allowed its registered representatives to maintain individual Checks

Received and Forwarded blotters. All transactions reflected on the blotter were processed by the registered representative on a weekly basis and were submitted to a principal at the firm for review. The firm failed to prepare adequate blotters as Securities Exchange Act of 1934 Rule 17a-3 required. ([FINRA Case #2011025591901](#))

Investment Professionals, Inc. (CRD #30184, San Antonio, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding purchase and sale matched inter-dealer transactions and purchase and sale transactions effected in municipal securities to the Real-Time Transaction Reporting System (RTRS) in the manner prescribed by Municipal Securities Rulemaking Board (MSRB) Rule G-14 RTRS Procedures and the RTRS Users Manual. The findings stated that the firm failed to report the correct trade time for matched inter-dealer transactions, failed to report matched inter-dealer transactions to an RTRS Portal within 15 minutes of trade time, and failed to report information about purchase and sale transactions to an RTRS Portal within 15 minutes of trade time. The firm failed to show the correct execution time on the memorandum of transactions in municipal securities. The findings also stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning MSRB reporting requirements. ([FINRA Case #2011028356101](#))

ITG Inc. (CRD #29299, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000, which includes disgorgement of approximately \$14,000 in commissions received. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that during an SEC Emergency Order period, it failed to comply with an Emergency Order in that it executed short sale orders in the securities of financial services companies covered by the Emergency Order without having borrowed, or pre-borrowed, the shares prior to execution. The firm obtained commissions totaling approximately \$14,000 for effecting these short-sale transactions. The findings stated that the firm misapplied exceptions to the locate requirement in its trading systems by improperly designating customer accounts as XMPT and, thus, exempt from SEC Regulation SHO's locate requirement. These exempt accounts had the capability to effect short sale transactions without having to obtain and document a valid locate prior to effecting the short sale. As a result, some of the improperly exempted customer accounts were submitted for execution short sale orders without a valid locate. In addition, the firm's supervisory system failed to include adequate supervisory steps and procedures reasonably designed to achieve compliance with the Emergency Order and SEC Regulation SHO's locate requirements. The firm also failed to have WSPs reasonably designed to achieve compliance with Rule 203(b)(1) of SEC Regulation SHO. Specifically, the firm did not have WSPs regarding the supervisory steps to be taken with respect to the designation of customer accounts as exempt from Rule 203(b)(1) of Reg SHO. ([FINRA Case #2010022976201](#))

J.P. Morgan Securities LLC (CRD #79, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it incorrectly reported duplicate tape reports of trades to the FNTRF and failed to append the correct related market center indicator to non-tape reports to the FNTRF. The findings stated that the firm failed to disclose on customer confirmations all capacities in which it had acted in executing the order. The findings also stated that the firm transmitted reports to OATS that contained inaccurate timestamps and handling codes. The findings also included that the firm failed to transmit three ROEs to OATS. ([FINRA Case #2011026097501](#))

Lawson Financial Corporation (CRD #15261, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely amend Forms U4 and a Form U5, failed to file Form U4 amendments and made Form U4 filings that were inaccurate. The findings stated that the firm filed statistical and summary reports of customer complaints in an untimely manner, and filed reports that were inaccurate. ([FINRA Case #2010021333201](#))

Max International Broker/Dealer, Corp. (CRD #46039, New York, New York) was censured, fined \$335,000 and ordered to pay \$482,111.27, plus accrued interest, in restitution to customers. The firm appealed the decision to the NAC but later withdrew its appeal. The sanctions were based on findings that the firm willfully charged fraudulent, excessive, undisclosed markups to customers in connection with the sale of large volumes of penny stocks from its proprietary account. The findings stated that the firm charged commissions, implying to some of its customers that the commissions represented all of the firm's profit from the transactions. The findings also stated that the firm failed to record trade details on order tickets and other records, failed to record the terms of the sales accurately, and failed to report the trades as required, which kept customers and regulators from detecting the fraudulent markups. The firm did not submit last sales reports of transactions in over-the-counter (OTC) equity securities within 90 seconds after execution to the OTC Reporting Facility (OTCRF). The findings also included that the firm did not create order memoranda for certain customer transactions, and the order memoranda for other securities transactions the firm generated did not reflect the time and date of the receipt, entry or execution of the customer orders. The memoranda did not show execution prices of a number of sales to customers, and in some cases recorded the price inaccurately.

FINRA found that the firm created deficient blotters. The blotters did not accurately record the terms of the customer orders. The firm failed to record solicited customer sales correctly as solicited on trade confirmations. FINRA also found that the firm did not inform FINRA of its intent to employ electronic storage media (ESM). The firm moved, deleted and changed electronic files and did not maintain them in the write once-read many (WORM) format. The firm reused the backup tapes onto which documents were scanned after a week, instead of maintaining them as required, did not have a system for scanning

written documents, such as account forms, for storage, and failed to create and maintain a duplicate copy of the ESM. In addition, FINRA determined that the firm failed to maintain its email communications in conformity with SEC Rule 17a-4. Email communications were stored in an administrator inbox that the CEO and CCO could access, and from which they could alter and delete messages at will. Moreover, FINRA found that the firm failed to enforce its supervisory procedures relating to markups and proprietary customers' trades, and failed to maintain evidence of its testing and verification of its supervisory procedures. The firm failed to identify the principal serving as its CCO on its Form BD until months after he began his service in that capacity. The firm's CEO filed late a required annual certification that it has in place processes to establish, maintain, review, test, and modify its written policies and procedures designed to achieve compliance with applicable rules and securities laws. ([FINRA Case #2007007253803](#))

Merriman Capital, Inc. (CRD #18296, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it appointed a registered representative as its CEO and he remained in that position for almost a year. The findings stated that at no point during his tenure as the firm's CEO was he registered as a principal. The registered representative actively engaged in the management of the firm's securities business by authorizing the hiring of a registered representative, appointing a registered representative to the firm's executive and hiring committees, and executing a CEO certification pursuant to FINRA Rule 3130. ([FINRA Case #2011025666301](#))

Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$365,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system, including written procedures reasonably designed to achieve compliance with NASD® and/or FINRA rules in connection with the sale of Non-Traditional Exchange-Traded Funds (Non-Traditional ETFs) in accounts where the firm provided brokerage services to certain retail customers, and failed to provide adequate formal training to its registered representatives and supervisors regarding the features, risks and characteristics of Non-Traditional ETFs. The findings stated that the firm supervised Non-Traditional ETFs the same way it supervised traditional ETFs until FINRA issued its June 2009 Regulatory Notice. The firm relied on its general supervisory procedures to supervise transactions in Non-Traditional ETFs during the relevant period, but the general supervisory system the firm had in place was not sufficiently tailored to address the unique features and risks involved with these products. The firm did not create a procedure to address the risks associated with longer-term holding periods in Non-Traditional ETFs. The findings also stated that the firm allowed certain of its registered representatives to recommend to customers a Non-Traditional ETF without performing reasonable diligence to understand the risks and features associated with it. ([FINRA Case #2009019113501](#))

Nobles & Richards, Inc. (CRD #146870, Plano, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement an adequate supervisory system to ensure that it conducted reasonable investigations of issuers' Regulation D private placement securities offerings to its customers. The findings stated that the firm recommended and sold speculative oil and gas programs, and while conducting due diligence on one issuer's offerings, failed to reasonably determine the viability of the investments. The findings also stated that the firm never compared its internal viability projections with actual well performance and, if it had, it would have discovered that its viability projections were inaccurate. None of the issuer's wells met the firm's projections, but the firm continued to recommend and sell its customers interests in the issuer's oil and gas private placements. The findings also included that the firm's due diligence on another issuer's offerings was limited to collecting information about the offerings from the issuer. The firm failed to conduct an independent investigation of the issuer's representations and claims. ([FINRA Case #2011025618801](#))

Nomura Securities International, Inc. (CRD #4297, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE. The findings also stated that the firm failed to show the correct execution time on brokerage order memoranda. FINRA also found that the firm failed to transmit block transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings also included that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTCRF.

FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FNTRF, and incorrectly designated some of them as ".W." The firm failed to transmit the correct execution time to the FNTRF for some of the last sale reports of transactions in these designated securities that were reported late. In addition, FINRA determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules concerning trade reporting to the OTCRF and FNTRF. ([FINRA Case #2010021997601](#))

Northeast Securities, Inc. (CRD #25996, Mitchelfield, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report S1 transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time and failed to report S1

transactions in TRACE-eligible securities to TRACE with the correct trade execution time. The findings stated that the firm double-reported S1 transactions in TRACE-eligible securities to TRACE, and reported S1 transactions in TRACE-eligible securities that it was not required to report. ([FINRA Case #2010024402101](#))

The Petroleum Clearinghouse, Inc. (CRD #35192, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately account for all auction revenues within its books and records. The findings stated that under a written management services agreement between the firm and an entity (a non-FINRA member firm), the entity paid the firm a monthly retainer fee for exclusive retention of the firm as a broker-dealer for oil and gas auction and other sales and purchase activities of the entity. For several years, this retainer fee was the only revenue reflected on the firm's financial statements. None of the revenues related to the oil and gas auction business the firm and entity conducted were reflected on the firm's books and records, which resulted in an understatement of the revenue the firm reported. The firm reported total revenue of approximately \$1,071,921 for approximately five years, while the entity's books and records reported auction-related revenue of approximately \$55,115,834 for the same period. The findings also stated that for five annual periods, FINRA sent the firm an invoice for the firm's gross income assessment, which FINRA member firms are required to pay pursuant to Schedule A, Section 1 of FINRA's By-Laws. During that period, NASD and FINRA calculated the firm's gross income assessment according to the understated revenue that the firm reported for the previous year in its FOCUS filings. The firm paid these invoices in full; but because its revenue was understated, it underpaid its gross income assessment by a total of \$73,294.82 for the five years. The firm was sent an invoice for that deficiency and has now paid that amount in full. ([FINRA Case #2011025622701](#))

Seattle-Northwest Securities Corporation (CRD #10639, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$87,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it mistakenly deposited funds intended for its customer reserve account into a payroll account, so it inadvertently failed to correctly account for a customer long position and proprietary short position that resulted from a repurchase transaction between the firm and the customer. The findings stated that the firm could not demonstrate that the customer reserve account was funded with a *bona fide* deposit. The firm did not have a procedure to document that it had confirmed that the deposit funding the Customer Reserve Account was *bona fide*, in that it did not cause an overdraft in the funding account. The findings also stated that the firm pledged to a bank a customer's bonds as collateral for a firm bank loan, but failed to include the bank loan as a credit in the firm's calculation of the customer reserve fund requirement. The firm included the debit in the customer reserve requirement computation, but did not include the bank loan as a credit in that computation, which gave the appearance of an inflated

debit balance in the reserve formula calculation. The findings also included that a month-end customer reserve computation did not include in a customer long position and the proprietary short position that resulted from a single transaction in which the firm engaged with a customer.

FINRA found that the firm mistakenly deposited funds intended for the customer reserve account into a payroll account. The firm identified the error and immediately remedied the deficiency of \$162,000, but did not report the deficiency until nearly four months later, after FINRA examiners identified the issue. FINRA also found that the firm received operational customer complaints in writing but did not report these complaints through FINRA's Firm Gateway® system. The firm did not have written procedures to ensure reasonable compliance with FINRA Rule 3070(c), and its WSPs failed to maintain an adequate supervisory system in its management of written customer complaints. The firm did not have WSPs addressing the proper reporting of operational written complaints to FINRA. In addition, FINRA determined that the firm provided numerous transaction confirmations to customers that included a disclosure of how to obtain the official statement (OS) from the MSRB's Electronic Municipal Market Access (EMMA), but did not include language disclosing that the firm would provide a copy of the OS upon request. The firm sent confirmations of municipal transactions to retail accounts related to trades that did not contain certain required disclosures, and failed to include similar disclosures in confirmations sent to institutional accounts related to trades. Moreover, FINRA found that instead of sending its customers a hard copy of the OS setting forth the terms of the offering, the firm began utilizing the MSRB's access equals delivery standard allowing the firm to provide its customers with notice of, and certain specific information about, the OS. The firm ceased sending a physical copy of the OS and began including a notification on each customer transaction confirmation, stating that the required information is available on the EMMA system on the MSRB website. The confirmations included disclosure instructions for obtaining the OS from EMMA, but did not include language disclosing that the firm would provide a copy of the OS upon request. Furthermore, FINRA found that certain of the firm's institutional accounts did not wish to receive confirmations. As a result, the firm coded these institutional accounts to suppress delivery of confirmations. Since the firm began utilizing the access equals delivery standard on customer confirmations (instead of providing customers with a copy of the OS), those accounts that were coded to suppress confirmations were no longer being provided with any of the disclosures required under MSRB Rule G-32(a).

The findings also stated that the firm failed to timely submit the OS for primary offerings to MSRB in a few submissions. The firm's late submissions were repeat violations from prior examinations. Also, as a result of an input error, one of the firm's timely filings appeared to be late. While this submission was actually filed timely, it was inaccurate as a result of the firm's input error, which made it appear as if the firm received a copy of an OS from the issuer earlier than was actually received. The findings also included that the firm's WSPs failed to provide for an adequate supervisory system in connection with its MSRB requirements. The firm's written procedures regarding the delivery of the OSs

for municipal securities offerings did not include an adequate system of review to be conducted by supervisory personnel to ensure that these procedures were being followed. The firm's procedures for the preparation and transmission of customer confirmations did not include information regarding any supervisory review of the customer confirmation delivery process. FINRA found that since these procedures did not specifically authorize the suppression of confirmations for certain customer accounts, the firm's failure to send confirmations to all customer accounts was inconsistent with its limited procedures. The firm's procedures also did not adequately address the supervisory review process for the firm's submissions made to MSRB. The firm's procedures did not reference its tracking program that was in place to provide assistance with its supervisory review process. The procedures did not address the firm's use of the Rule G-32 Report Card available from the FINRA Report Center. The firm's procedures did not address the supervisory reviews and processes the firm had undertaken, including the individual(s) responsible for reviewing the tracking program and G-32 Report Card, how often these reviews are conducted, what information is reviewed and how the reviews are evidenced. ([FINRA Case #2011028365301](#))

SG Americas Securities, LLC (CRD #128351, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in reportable securities in the FNTRF within 20 minutes after execution; as the order entry identifier (OEID), it had an obligation to accept or decline these transactions. In addition, the findings stated that the firm failed to accept or decline transactions in reportable securities in the OTCRF within 20 minutes after execution; as the OEID, it had an obligation to accept or decline these transactions, as well. ([FINRA Case #2010023163201](#))

Statetrust Investments Inc. (CRD #104651, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to report the correct contra-party's identifier for transactions on TRACE-eligible securities to TRACE. ([FINRA Case #2010024689901](#))

Sungard Brokerage & Securities Services, LLC fka Assent, LLC (CRD #104162, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order routed to NASDAQ, the corresponding new order transmitted by the destination member firm, or the preceding Route or Combined Order/Route Reports transmitted by other member firms due to inaccurate, incomplete or improperly formatted data. ([FINRA Case #2011026800801](#))

Wunderlich Securities, Inc. (CRD #2543, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$36,500 and required to revise its WSPs regarding MSRB Rule G-15. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately disclose and report information regarding purchase and sale transactions effected in municipal securities to the RTRS, failed to accurately disclose the yield-to-worst on trade confirmations or the correct lowest effected yield to customers, and failed to report the correct yield to the RTRS. The findings stated that the firm failed to report information regarding municipal securities transactions to the RTRS in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about transactions to an RTRS Portal within 15 minutes of trade time, failed to report to the RTRS Portal the correct trade time, and failed to record the correct trade time on trade memoranda. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning MSRB Rule G-15. The findings also included that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. FINRA found that the firm failed to accurately report transactions in TRACE-eligible securities to TRACE; the firm failed to accurately report to TRACE the execution date and the accurate execution time in some instances, and failed to report to TRACE the accurate market identifier for one transaction. ([FINRA Case #2009019386901](#))

Individuals Barred or Suspended

Judith Laverre Alderete (CRD #1731336, Registered Principal, Plano, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any principal or supervisory capacity for one month. The fine must be paid either immediately upon Alderete's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Alderete consented to the described sanctions and to the entry of findings that she permitted an individual to function in a principal capacity even though the individual was not registered in such capacity. The findings stated that during the period, Alderete was the CCO and the unregistered principal's supervisor. The findings also stated that the individual's activities included reviewing and approving the firm's WSPs, annual certifications, monthly net capital calculations and annual audits; reviewing incoming and outgoing correspondence, processing customer complaints, and hiring and training registered representatives.

The suspension was in effect from November 5, 2012, through December 4, 2012. ([FINRA Case #2009020534802](#))

Charles Ignacio Alvarez (CRD #4499192, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Alvarez consented to the described sanction and to the entry of findings that in an attempt to conceal investment losses sustained in customers' accounts, he prepared and provided falsified account statements in which he misstated the value of the customers' accounts and reflected fictitious investment holdings. The findings stated that Alvarez also prepared and provided a falsified Form 1099-B, in furtherance of his attempt to conceal the investment losses in the customers' accounts. ([FINRA Case #2011026995301](#))

Kerri Lynn Avery (CRD #4766216, Registered Representative, South Jordan, Utah) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Avery consented to the described sanction and to the entry of findings that she deducted funds from the salary of an employee who was also a customer for the purpose of making contributions to the employee's variable annuity (VA), but failed to make some of the required payments, or make the payments timely, and instead used the funds to pay her business expenses. Avery made improper use of \$1,759.73 in customer funds. The findings stated that the employee complained to the firm regarding the amounts not contributed to her VA and Avery reimbursed the employee for the amounts she failed to contribute to her annuity, with interest. ([FINRA Case #2010025072501](#))

Kenneth Wayne Billingsley (CRD #1664116, Registered Principal, North Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 90 days. In determining appropriate sanctions in this matter, FINRA considered that the firm and Billingsley provided full restitution, a total of \$205,112.73, to the customers who purchased the securities. Without admitting or denying the findings, Billingsley consented to the described sanctions and to the entry of findings that he failed to reasonably supervise a former registered representative who made unsuitable and unauthorized purchases of securities for customers. The findings stated that Billingsley was the registered supervisory principal of his member firm's home office where the representative made the transactions, and according to the firm's WSPs, Billingsley's responsibilities included supervising the home office for customer-specific suitability and unauthorized transactions. The firm and Billingsley conducted an investigation and terminated the representative for his misconduct. The findings also stated that Billingsley had concluded that transactions in financial companies such as the particular company were risky investments due to a well-publicized financial crisis and other related matters. Billingsley even warned the representative against recommending the securities to his customers because he felt they were unsuitable investments at that time. Despite these red flags, Billingsley approved the representative's securities purchases because he incorrectly determined that he had sufficient basis to approve the trades, even if they were otherwise unsuitable, if the customers approved them. The findings also included that Billingsley

failed to respond to red flags that the representative's transactions with the company's securities were unauthorized. Billingsley failed to adequately inquire into the suspicious timing of each of these customer transactions.

The suspension is in effect from December 24, 2012, through March 23, 2013. ([FINRA Case #2007011920703](#))

James Henry Bischoff III (CRD #2468603, Registered Representative, Alpharetta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Bischoff's member firm customer gave him a check for \$120,000 made payable to an entity for an investment in a money market account. The finding stated that Bischoff failed to invest the \$120,000 in the manner that the customer instructed and instead, deposited the check into a bank account that he had opened for his personal use, under the same name as the entity that the check was made payable to, and converted the funds to his own use. The findings stated that Bischoff solicited several firm customers to invest in a company, which was not an approved investment of his firm. Bischoff's clients invested more than \$70,000 via private placements Bischoff facilitated. In consideration for his solicitation of these and other investors of the company, Bischoff received 120,000 shares of the company's stock and warrants to purchase an additional 250,000 shares. The findings also included that Bischoff did not disclose or receive approval from anyone at his firm regarding his participation in the company's transactions. FINRA found that Bischoff failed to respond to FINRA requests for information and documents. ([FINRA Case #2011028975801](#))

Edward Shea Brokaw (CRD #1162997, Registered Representative, Darien Connecticut) was fined \$30,000 and suspended from association with any FINRA member in any capacity for one year. The NAC imposed the sanctions following appeal and remand of an OHO decision. The sanctions were based on findings that Brokaw failed to conduct an adequate inquiry to ensure that a customer's trading instructions with respect to stock sales were not for a manipulative purpose. The findings stated that Brokaw caused his member firm's books and records to be inaccurate when he failed to ensure the accurate preparation of a customer's order tickets.

The decision has been appealed to the SEC and the sanctions are not in effect pending the appeal. ([FINRA Case #2007007792902](#))

Edwin Joseph Carey III (CRD #1658559, Registered Principal, Hingham, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 15 business days. In light of Carey's financial status, a fine of \$15,000 has been imposed. Without admitting or denying the findings, Carey consented to the described sanctions and to the entry of findings that he failed to properly safeguard customer block order information and refrain from conduct that could disadvantage or harm the execution of his customers' block orders.

The findings stated that Carey solicited potential contra-side parties to take the other side of customer block orders. In the course of finding the other side, Carey provided a purported potential contra-party with information about block orders that was inappropriate under the circumstances. The findings also stated that the contra-party used the information it received from Carey about the block orders to front-run the block-order customers. The contra-party traded on the same side of the block order by auto-executing through a third-party direct access platform. The contra-party then submitted to Carey orders on the contra-side of the customer order and Carey manually executed those orders. Carey did not see the trades executed through the direct-access platform. By trading on the same side of pending block orders, the contra-party may have been able to achieve a more favorable price for the securities, while depriving the block order customers of best execution for their orders.

The suspension was in effect from November 19, 2012, through December 10, 2012. ([FINRA Case #2010021480701](#))

Randy James Carson (CRD #5473145, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for eight months. The fine must be paid either immediately upon Carson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Carson consented to the described sanctions and to the entry of findings that he backdated two insurance policy documents for a client to make it appear as if an insurance policy had been issued approximately eight months in advance. The findings stated that Carson generated a Binder of Insurance form and a Home Insurance Policy Field Issue Declarations form that were both backdated. Carson also signed the latter document. The findings also stated that the client was facing a fine by her condominium association unless she showed proof of insurance coverage, and these insurance documents made it appear as if a condominium homeowner's policy was effective at an earlier date.

The suspension is in effect from October 15, 2012, through June 14, 2013. ([FINRA Case #2011030116801](#))

Jeffrey Arthur Cashmore (CRD #1928725, Registered Principal, East Aurora, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Cashmore consented to the described sanctions and to the entry of findings that he prepared, or caused to be prepared, and delivered to his customers and prospective customers, packages consisting of, *inter alia*, documents containing investment information and model portfolio recommendations that contained misleading information. The findings stated that the documents contained in the package provided Cashmore's customers with oversimplified and incomplete information, and failed

to provide a sound basis for evaluating the facts with respect to the information contained in the package. The package failed to provide information necessary to properly understand several of the tables and charts contained in the presentation. The findings also stated that Cashmore provided numerous Morningstar reports in the packages, all of which addressed Class A share investments in various mutual funds. However, Cashmore almost exclusively recommended and sold Class C share investments to his customers. Although Class A and C share investments in the same mutual fund are similar, they are distinct securities with differing fees, surrender charges and rates of return. Cashmore provided misleading sales literature to his customers when he produced and distributed to his customers Morningstar reports for Class A mutual fund shares while recommending and selling the Class C shares of the same funds. The findings also included that Cashmore caused his member firm to fail to comply with recordkeeping requirements by not retaining a complete copy of the packages sent to current and prospective customers.

The suspension was in effect from November 5, 2012, through December 4, 2012. ([FINRA Case #2010023393501](#))

Kenneth Wade Christian (CRD #4157126, Registered Representative, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Christian's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Christian consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose unsatisfied judgments.

The suspension was in effect from October 15, 2012, through November 26, 2012. ([FINRA Case #2011030394901](#))

Michael Matthew Cohan (CRD #4917799, Registered Representative, Hatfield, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Cohan's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cohan consented to the described sanctions and to the entry of findings that after completing the firm's 2012 Anti-Money Laundering and Economic Sanctions course, he provided his exam questions and answers to other firm employees who had not yet taken the course.

The suspension was in effect from November 5, 2012, through December 4, 2012. ([FINRA Case #2012031984901](#))

Charles Barnett Davis Jr. (CRD #61845, Registered Principal, Snellville, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Davis consented to the described sanctions and to the entry of findings that he was employed by and accepted compensation from a business outside the scope of his relationship with his member firm, and failed to provide prompt written notice to his firm. Davis was the managing member and registered agent for two limited liability companies, received the companies' bank statements at his office location, signed checks issued on the entities' bank accounts and received yearly interest income from each entity. In addition, the members of each entity procured a key-man life insurance policy on Davis so that in the event of his untimely death, matters regarding the investment could be handled more efficiently. The findings stated that Davis inaccurately certified on annual compliance questionnaires to his firm that he was not involved in any undisclosed outside business activities. The findings also stated that Davis was approved to participate in his firm's life settlement program but was suspended from participation because he obtained purchase quotes from a company not included on his firm's approved list. Davis violated the terms of the suspension the day after it took effect with one customer, and then with four others. Davis assisted firm customers to prepare their applications for purchase quotes and placed the customers in direct contact with companies that purchase life insurance policies.

The suspension is in effect from November 19, 2012, through March 18, 2013. ([FINRA Case #2010021530001](#))

Hakim Atiba Donadelle (CRD #2477436, Registered Representative, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Donadelle consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose a felony charge. The findings stated that Donadelle completed and signed a Form U4 and submitted it to a member firm in connection with applying for registration with the firm, and answered "no" to the question concerning being charged with a felony.

The suspension was in effect from November 5, 2012, through November 26, 2012. ([FINRA Case #2009018895301](#))

Dora Dao Dong (CRD #2542142, Registered Representative, Saratoga, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Dong's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the

findings, Dong consented to the described sanctions and to the entry of findings that she was appointed as a board member and audit committee member of a company, and the company provided Dong with checks, each in the amount of \$1,500, as compensation for her positions with the company. The findings stated that Dong never provided notice to her member firm, written or otherwise, disclosing her positions with the company, or that she was receiving compensation from the company on a quarterly basis for the work she performed on its behalf. The findings also stated that Dong attested on monthly compliance questionnaires that her outside business activity disclosures were current when they were not. Dong's firm filed a Form U5 on her behalf, terminating her association and registration with the firm because she was not meeting minimum production requirements.

The suspension was in effect from October 15, 2012, through November 26, 2012. ([FINRA Case #2011028397501](#))

Michael Scott Dore (CRD #5059481, Registered Representative, Warren, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Dore's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Dore consented to the described sanctions and to the entry of findings that he willfully failed to amend his Form U4 within the appropriate times to reflect that he had been charged with, pled guilty to, and had been convicted of a felony.

The suspension is in effect from November 5, 2012, through May 4, 2013. ([FINRA Case #2011026805301](#))

Richelle Ann Elberg (CRD #4787254, Registered Representative, Conway, New Hampshire) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Elberg's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Elberg consented to the described sanctions and to the entry of findings that she prepared research reports for a company that specializes in providing research reports on technology companies for which she received compensation of approximately \$15,000, without providing her member firm with any written notice of the business activity.

The suspension was in effect from October 15, 2012, through November 9, 2012. ([FINRA Case #2012031144801](#))

Richard William Engen (CRD #2528314, Registered Principal, Fargo, North Dakota) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the allegations, Engen consented to the described sanctions and to the entry of findings that he executed numerous mutual fund purchases for customers and designated all of these transactions as being eligible for a waiver of the front-end load based on a \$1 million right of accumulation (ROA). The findings stated that none of these purchases qualified for the waiver through the ROA designation, because the customers did not each have a cumulative investment of \$1 million with the mutual fund issuers. The findings also stated that as a result of Engen's misrepresentations when executing these transactions, the customers purchased a total of \$1,293,285 of mutual funds without any front-end loads when, in fact, all of the transactions should have included a front-end load assessment. Through Engen's misrepresentations, he deprived his member firm and the mutual fund issuers of fees to which they were otherwise entitled. The findings also included that Engen's misrepresentations caused his firm's books and records to contain false information about the mutual fund purchases for which he incorrectly entered an ROA designation.

The suspension is in effect from November 19, 2012, through December 18, 2012. ([FINRA Case #2009016691403](#))

Jeffery Allen Fanning (CRD #1566859, Registered Principal, Henderson, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 30 days. In determining the appropriate sanction in this matter, FINRA considered that the firm and Fanning provided full restitution, a total of \$205,112.73, to the customers who purchased the securities. Without admitting or denying the findings, Fanning consented to the described sanctions and to the entry of findings that he was responsible for supervising a former registered representative who conducted excessive trading and unauthorized transactions. The firm and Fanning conducted a limited investigation and terminated the representative for his misconduct. Fanning failed to conduct customer account reviews for excessive trading with a view toward preventing excessive trading in some of the representative's accounts, and failed to take reasonable action to detect unauthorized transactions by the representative. The findings also stated that the firm's WSPs required quarterly reviews of customer accounts for excessive trading. Although the representative had customers with turnover rates that were greater than the needed amount, Fanning failed to contact the customers to determine whether the trading matched their investment objectives or whether the representative controlled their accounts. For some customers with turnover rates that were greater than the amount, Fanning neglected to review customer account activity for cost-to-equity ratios and profit and loss. Fanning was also required to send activity letters to these customers concerning the turnover rate in their accounts, but he did not. Fanning was required to determine if the account activity

matched the account objectives and if the account representative controlled the account, but he did not undertake this analysis or take the steps to stop the trading activity. Fanning failed to respond to red flags concerning the representative's transactions that were unauthorized, and failed to adequately inquire into the suspicious timing of each of these customer transactions.

The suspension is in effect from November 19, 2012, through December 18, 2012. ([FINRA Case #2007011920702](#))

Mary Kay Finnegan-Ongaro (CRD #5316623, Registered Representative, Duluth, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Finnegan-Ongaro's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Finnegan-Ongaro consented to the described sanctions and to the entry of findings that she falsified customers' signatures on individual retirement account (IRA) forms and a firm-created VA disclosure form. The findings stated that Finnegan-Ongaro falsified two of the customers' signatures with their knowledge and consent, at their request. Finnegan-Ongaro falsified a third customer's signature, without the customer's knowledge or consent, under a good faith, but mistaken, belief that she had authorization pursuant to a power of attorney. The findings also stated that firm policy prohibited registered representatives from signing customer names to any documents.

The suspension is in effect from November 5, 2012, through December 17, 2012. ([FINRA Case #2012031866701](#))

Damon Andres Flores (CRD #5663634, Registered Representative, Albuquerque, New Mexico) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Flores consented to the described sanction and to the entry of findings that he submitted annuity applications for customers that contained forged signatures and false information, thereby misappropriating commissions and bonuses from his member firm to which he was not entitled. The applications were never funded. The customers were not aware that Flores submitted the false annuity applications in their names and did not authorize Flores to sign the annuity applications or submit the applications on their behalf. Flores knew that the unfunded annuity applications were false at the time he submitted them. The findings stated that based upon the submissions, Flores' firm paid him \$36,927.31 in commissions and bonuses. The findings also stated that Flores failed to respond to FINRA requests for information regarding his submission of annuity applications he previously submitted to his firm, the false information he inserted on certain VA applications, and allegations reported in his Form U5. The findings also included that Flores failed to appear for FINRA on-the-record testimony. ([FINRA Case #2011027954501](#))

Joel Todd Freimuth (CRD #4245988, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Freimuth's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Freimuth consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing prompt written notice to his firm. The findings stated that Freimuth entered into a retainer agreement with a company whereby he accepted \$5,000 for providing fee-based business consulting services and raising capital for the company. The findings also stated that Freimuth submitted outside business activity forms to the firm but failed to disclose his involvement with the company.

The suspension was in effect from October 15, 2012, through November 13, 2012. ([FINRA Case #2011027684301](#))

Patrick Joseph Friel (CRD #2463685, Registered Principal, Toms River, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 30 business days. In light of Friel's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Friel consented to the described sanction and to the entry of findings that he improperly borrowed money from a customer at his member firm. The loan was interest free and did not have any terms of repayment. The findings stated that the firm's procedures generally prohibited borrowing money from a customer, except in limited circumstances. Those procedures required registered representatives to obtain the firm's written approval before entering into such a loan. Friel did not seek or obtain the firm's approval before entering into the loan. Friel still owes the customer money.

The suspension is in effect from November 5, 2012, through December 17, 2012. ([FINRA Case #2011029382701](#))

Shari Robin Frimer (CRD #2503895, Registered Representative, Eastport, New York) and Thomas Joseph Heaphy Jr. (CRD #2540325, Registered Representative, Boynton Beach, Florida) submitted an Offer of Settlement in which Frimer was fined \$32,407.50, which includes disgorgement of financial benefits of \$17,407.50, and suspended from association with any FINRA member in any capacity for seven months. The amount of the fine has been reduced to reflect Frimer's payment of a \$20,000 fine to the State of Florida Office of Financial Regulation. Heaphy was fined \$40,827.50, which includes disgorgement of financial benefits of \$30,827.50, and suspended from association with any FINRA member in any capacity for nine months. The fines must be paid either immediately upon Frimer's and Heaphy's reassociation with a FINRA member firm following their suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Frimer and Heaphy

consented to the described sanctions and to the entry of findings that they participated in private securities offerings by selling securities offerings to customers and receiving selling compensation for their sales. The findings stated that prior to participating in the private securities transactions, Frimer and Heaphy did not provide written notice to their member firm and did not receive the requisite approval from their firm to participate in the transactions. Frimer's and Heaphy's participation in the transactions was outside the regular scope or course of their employment with their firm. The findings also stated that Frimer guaranteed, in writing, to a customer that he would be able to sell shares of a stock within a certain time period for his cost to acquire them. The findings also included that Frimer sent, or caused to be sent, marketing newsletters regarding a company to firm customers, without requesting or receiving the firm's approval to disseminate the newsletters. The newsletters were not fair and balanced, failed to provide a sound basis for evaluating the facts in regard to the company, and contained exaggerated, unwarranted, and misleading claims and unreasonable and unwarranted forecasts. FINRA found that Heaphy willfully failed to timely amend his Form U4 to disclose a material fact, a lien placed on his property for unpaid taxes, and willfully failed to disclose the material fact on the Form U4 that a member firm filed for him.

Frimer's suspension is in effect from November 5, 2012, through June 4, 2013. Heaphy's suspension is in effect from November 5, 2012, through August 4, 2013. ([FINRA Case #2008012059501](#))

John Thomas Gasper III (CRD #2732961, Registered Representative, Palmyra, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$40,500, of which \$30,491.14 represents disgorgement of commissions, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Gasper's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gasper consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and obtaining prior written approval from, his member firm. The findings stated that Gasper received approximately \$30,491.14 in commissions as a result of the transactions.

The suspension is in effect from November 5, 2012, through May 4, 2013. ([FINRA Case #2011028660001](#))

Joey Giamichael (CRD #3248158, Registered Principal, Hoboken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for 30 business days, and suspended from association with any FINRA member in any principal capacity for 45 days. The suspensions will run concurrently. Without admitting or denying the findings, Giamichael consented to the described sanctions and to the entry of findings that he directed a

research analyst at his member firm to solicit investment banking business from a public company contrary to the firm's WSPs that prohibited research analysts from participating in efforts to solicit investment-banking business. The findings stated that Giamichael ignored red flags indicating that the research analyst was engaging in improper conduct. Giamichael received and participated in a number of email communications that indicated that the research analyst was engaged in efforts to solicit investment-banking business, but Giamichael didn't take any steps to deter his efforts. Giamichael never spoke with the research analyst about the content of an email to a company and never followed up with him to correct and prevent his communications with the management of the company concerning investment-banking business. The findings also stated that Giamichael did not report the research analyst's conduct and communications to his firm's compliance department.

The suspension in any capacity is in effect from November 5, 2012, through December 17, 2012. The suspension in any principal capacity is in effect from November 5, 2012, through December 19, 2012. ([FINRA Case #2011026060504](#))

Henry Horace Godbee III (CRD #2284452, Registered Principal, North Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Godbee consented to the described sanction and to the entry of findings that he failed to provide sworn testimony FINRA requested. ([FINRA Case #2012032300001](#))

Tammy Jean Gruszie (CRD #5644292, Registered Representative, Dayton, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Gruszie's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gruszie consented to the described sanctions and to the entry of findings that she affixed the signatures of several insurance customers onto various insurance forms and submitted them to the member firm's insurance affiliate, without disclosing that the customers had not actually signed the forms. The findings stated that Gruszie did not obtain authorization from some of the customers to affix their signatures onto the forms.

The suspension is in effect from October 15, 2012, through February 14, 2013. ([FINRA Case #2010025723901](#))

Michael Wayne Hendrick (CRD #3168378, Registered Representative, Indialantic, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Hendrick's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request

for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hendrick consented to the described sanctions and to the entry of findings that he effected trades in his customer's account at the direction of the customer's spouse. The findings stated that the firm did not accept the account as discretionary, and the customer did not give Hendrick written authority to exercise discretion over the account. In addition, the customer's spouse did not have written authority to direct trading in the customer's account. The findings also stated that on that same day, Hendrick mismarked order tickets in securities as unsolicited when the trades were actually solicited, thus causing the firm's books and records to be inaccurate concerning these trades.

The suspension was in effect from October 15, 2012, through November 9, 2012. ([FINRA Case #2011027466701](#))

William Edward Hesse (CRD #1192683, Registered Principal, Freeport, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Hesse's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Hesse consented to the described sanction and to the entry of findings that he failed to reasonably supervise an individual and failed to reasonably review trades and wire transactions directed by a client of the individual for potentially suspicious activity and other irregularities. The finding stated that despite several red flags, Hesse did not identify any of the activity in the accounts the client controlled to be suspicious or irregular, and failed to take any supervisory action to prevent the client from engaging in a cherry-picking scheme. The client had the ability to reallocate trades among the accounts that he controlled. The accounts controlled by the client, who NASD had barred for failing to appear for on-the-record interviews in connection with an investigation of, among other things, the possible circumvention of day trading rules, generated a relatively substantial amount of the firm's total revenue for a period.

The suspension is in effect from October 15, 2012, through January 14, 2013. ([FINRA Case #2010024116901](#))

Brandon Smart Higgins (CRD #6006444, Registered Representative, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Higgins consented to the described sanction and to the entry of findings that he completed and signed a Form U4 and willfully failed to disclose material information that the SEC had entered an order against him in connection with investment-related activity, and permanently restrained and enjoined him from violating certain securities laws. ([FINRA Case #2012031865401](#))

Braden Scott Hill (CRD #2796421, Registered Principal, Rogers, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Hill's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hill consented to the described sanctions and to the entry of findings that he sent sales literature to prospective customers discussing how they could convert their 401(k) plans to self-directed IRAs, which had not been submitted to his member firm or FINRA for pre-approval, was not fair and balanced, created an unwarranted sense of urgency and contained exaggerated, unwarranted and misleading statements. The findings stated that after receiving an inquiry from the Arkansas Securities Department, Hill's firm confronted him about the IRA sales literature and he informed the firm he had hired a marketing company to find prospective customers, and it had inadvertently sent the sales literature before he had given approval. The findings also stated that Hill provided his firm with a purported letter from the company apologizing for any inconvenience due to the premature release of the IRA sales literature, but the firm later discovered that Hill had fabricated the company and the apology letter from the company. The findings included that a firm customer discovered that a stock had been sold in his account without his knowledge or consent, contacted Hill the next day to complain about the sale and Hill explained the sale had been an error. FINRA found that Hill settled the customer's complaint without notifying the firm by sending the customer a \$439.30 cashier's check.

The suspension is in effect from November 5, 2012, through November 4, 2014. ([FINRA Case #2012031737801](#))

Jerry Moore Hill (CRD #3357, Registered Principal, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any principal or supervisory capacity for two months and required to requalify as a financial and operations principal (FINOP) by passing the Series 27 examination prior to associating with any FINRA member firm following her two-month suspension. In light of Hill's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Hill consented to the described sanctions and to the entry of findings that she permitted a former FINRA member firm, for which she served as FINOP, to conduct a securities business while below its \$100,000 minimum net capital requirement. The findings stated that the firm's net capital requirement increased from \$5,000 to \$100,000 as a result of its executing more than 10 transactions in its proprietary trading account. Hill permitted the same firm to, once again, conduct a securities business while below its \$5,000 minimum net capital requirement. The net capital deficiency resulted from Hill's misclassification of Electronic Communication Network (ECN) rebates as allowable assets, when they should have been classified as non-allowable assets; her erroneous double-entry of a credit the member firm received from its clearing firm; and

the booking of a liability from a FINRA disciplinary fine. The findings also stated that Hill permitted another firm for which she served as FINOP to conduct a securities business while under its minimum net capital requirement of \$5,000. The capital deficiency resulted from Hill's failure to accrue legal expenses. Hill also caused the firm to maintain inaccurate books and records, to submit an inaccurate FOCUS report for a month and for all quarters in another year, and to fail to give required notifications pursuant to SEC Rule 17a-11.

The suspension is in effect from November 5, 2012, through January 4, 2013. ([FINRA Case #2011030711101](#))

Juan Jose Jimenez (CRD #2819718, Registered Representative, Sacramento, California) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 120 days. Without admitting or denying the allegations, Jimenez consented to the described sanctions and to the entry of findings that he used approximately \$26,677 of proceeds from sales, as well as money in a customer's cash sweep account, to purchase shares of a mutual fund in the principal amount of \$30,000 in the customer's account. The findings stated that there was a sales charge of approximately 4 percent associated with the purchase, and Jimenez was credited initially, as a result, with a \$1,200 gross commission. The findings also stated that because these transactions involved the sale of one mutual fund and the purchase of another mutual fund with sales charges, Jimenez's member firm's policies required the completion of a switch form, called the Client Investment Replacement Authorization form (CIRA form or switch form). The CIRA form contains spaces for the representative to identify whether the exchange is solicited or unsolicited, to explain the rationale for the exchange, and to make certain disclosures to the client, including disclosure of any surrender charges as well as new sales charges. The CIRA form is required to be signed by the client, the broker and a manager from the firm. The findings also included that Jimenez filled out a CIRA form reflecting the exchange and forged the customer's signature on the CIRA form. Jimenez never sought the customer's permission to sign her name on the form, either before or after he signed the form. At the time he forged the customer's signature, Jimenez knew his conduct was improper and contrary to firm policy.

FINRA found that in addition to forging the signature, Jimenez incorrectly identified the trade as unsolicited on the CIRA form, and also made statements in the body of the form that were not true, including that the customer wanted to sell one mutual fund because she was unhappy with its performance. FINRA also found that the customer called the firm to complain that she had not authorized the transactions in her account. After the firm sent her a copy of the CIRA form purportedly containing her signature, she advised the firm that the signature was not hers. The firm compared the signature on the CIRA form to the customer's new account documentation and determined that they did not match. In addition, FINRA determined that the firm interviewed Jimenez, who admitted forging the customer's signature on the CIRA form. The firm reversed the trades, reinstated the customer's original positions and terminated Jimenez for violating company policy.

The findings also stated that after his termination from his firm, Jimenez became associated with another firm. The new firm filed a Form U4 registering Jimenez and disclosing his termination from his previous firm and other material information. On those forms, Jimenez entered material information on the DRP denying the allegation, stating he did not sign the switching letter in question and only acted on the client's expressed authorization. The findings also included that Jimenez's explicit denial of signing the switch form was willfully false, as he had admitted in writing and under oath to FINRA staff that he had forged the customer's name to the switch form. Jimenez's false Form U4 statement was aggravating because it was part of an effort on his part to mislead his new employer about the circumstances that led to his termination. FINRA found that in particular, Jimenez provided a typed statement to his new firm regarding the circumstances that he alleged led to his termination by his previous firm. In that statement, Jimenez claimed that he had sent the switch form to the client, that he had received a signed copy back from the client, and that, contrary to the Form U5 Termination Notice, he had not admitted to the firm (but in fact denied) signing the switch form. These statements were false, and Jimenez knew them to be false.

The suspension is in effect from November 19, 2012, through March 18, 2013. ([FINRA Case #2009020452901](#))

Marlo Maurice Jones (CRD #5504578, Registered Representative, Fremont, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jones falsely obtained and misused confidential information by instructing an individual to impersonate a former registered representative on the telephone with an insurance company. The findings stated that Jones supplied the individual with the representative's Social Security number and other information to get the representative's agent number from the insurance company, and then used the number to create a profile on the insurance company's website to obtain confidential information about at least one of the representative's customers. The findings also stated that the company traced the call to the telephone number associated with Jones and notified his member firm of the situation. In written responses and oral interviews with the firm's compliance personnel, Jones claimed multiple times that a former assistant made the call to the insurance company without his knowledge. However, Jones recanted and admitted that he made up the former assistant in order to protect the identity of the individual he had instructed to make the call, and admitted that he instructed the individual to impersonate the representative in the call with the company. The findings also included that Jones failed to appear and provide testimony as requested by FINRA in connection with an investigation. ([FINRA Case #2010024606001](#))

Dean Kaplanidis (CRD #2832379, Registered Supervisor, Pearl River, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that a customer purchased an insurance company's VA through Kaplanidis' member firm in the amount of approximately \$215,000. The finding stated that the customer's VA was structured to provide him with a stream of income of approximately \$1,025 per month. The findings also stated that without the customer's knowledge or consent, Kaplanidis opened a personal checking account at his firm's affiliate bank branch in the customer's name, using information the customer provided on his VA application, and requested the issuance of an automatic teller machine (ATM) card for access to the funds in the checking account. The findings also included that Kaplanidis forged annuity withdrawal forms to move funds from the customer's VA to the checking account he had opened. Kaplanidis wrongfully transferred approximately \$145,184 of the customer's funds to the checking account, used the unauthorized ATM card and withdrew the funds from the checking account. FINRA found that the customer contacted the firm because his monthly distributions from his VA had suddenly ceased. The firm promptly contacted the insurance company and learned that numerous withdrawals totaling \$145,184 were executed in the account, depleting the funds in the VA. The firm entered into a settlement with the customer, providing a \$20,107.37 payment to the customer and restoring \$145,183.18 to the customer's annuity. FINRA also found that Kaplanidis pled guilty in the New York Supreme Court to grand larceny in the third degree, which is a felony. Kaplanidis was ordered to pay full restitution to his firm's affiliate. In addition, FINRA determined that Kaplanidis failed to respond to FINRA requests for information. ([FINRA Case #2011025975301](#))

Mark William Kaplowitz (CRD #824379, Registered Principal, Bridgewater, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000, suspended from association with any FINRA member in any capacity for three months, and ordered to disgorge ill-gotten gains and pay partial restitution in the total amount of \$200,000, plus interest, to a customer. The fine and restitution must be paid either immediately upon Kaplowitz's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kaplowitz consented to the described sanctions and to the entry of findings that he recommended and sold illiquid privately placed securities without having reasonable grounds for believing that such transactions were suitable for a customer in view of the customer's financial situation, investment objectives and needs. The findings stated that given the risk of principal loss associated with the recommended investments, Kaplowitz over-concentrated the customer's liquid assets in the privately placed securities. Kaplowitz failed to understand the risks associated with investing in those securities. The customer lost at least \$225,000 of his principal investment in the securities.

The suspension is in effect from November 19, 2012, through February 18, 2013. ([FINRA Case #2010021843501](#))

Junyoung Kim (CRD #3169779, Registered Representative, Madison, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kim consented to the described sanction and to the entry of findings that he did not attend an on-the-record interview and informed FINRA staff that he would not appear to testify at any future on-the-record interview. ([FINRA Case #2010023935001](#))

James Wallace King (CRD #1798229, Registered Representative, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, King consented to the described sanctions and to the entry of findings that he willfully failed to timely amend his Form U4 to disclose tax liens against him. The findings stated that it was upon FINRA's investigation that King amended his Form U4 to disclose the liens.

The suspension is in effect from November 19, 2012, through January 18, 2013. ([FINRA Case #2010025271401](#))

Raphael John Klinger (CRD #1828165, Registered Representative, Lebanon, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for 60 days, required to remain current with the required payments to a customer consistent with the terms of the loan agreement, and certify in writing to FINRA that he is current on all required payments to the customer and provide proof of such payments to FINRA. The fine must be paid either immediately upon Klinger's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Certification and proof of payments ordered are required either immediately upon Klinger's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Klinger consented to the described sanctions and to the entry of findings that he borrowed \$168,000 from his customer. The findings stated that the firm's procedures did not permit Klinger to borrow funds from his customer, and he never sought the firm's permission to borrow funds from his customer.

The suspension was in effect from October 15, 2012, through December 13, 2012. ([FINRA Case #2011026374701](#))

Caroline Faye Korn (CRD #4367196, Registered Representative, Rochester, New York) submitted a Letter of Acceptance Waiver and Consent in which she was fined \$5,000, suspended from association with any FINRA member in any capacity for 15 business days, and ordered to requalify as a general securities representative by passing the required examination(s) before reassociation with any member firm in that capacity. Without admitting or denying the findings, Korn consented to the described sanctions and to the

entry of findings that she exercised discretionary power in customers' accounts without the customers' written authorization to place discretionary trades. The findings stated that Korn failed to obtain her member firm's written acceptance of the accounts as discretionary.

The suspension was in effect from November 19, 2012, through December 10, 2012. ([FINRA Case #2011029070101](#))

Carrie Ann La Friniere (CRD #5459339, Registered Representative, Harrison Township, Michigan) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, La Friniere consented to the described sanction and to the entry of findings that she wrote fictitious property and casualty insurance policies for supposed customers of her member firm's insurance affiliate, in some instances using her family members and friends as the purported insured, but in fact, no customers had purchased the policies. The findings stated that La Friniere received approximately \$64,500 in advanced commissions from the insurance affiliate for the sale of the fictitious policies. After writing a fictitious policy and receiving the commission for the purported sale, La Friniere canceled the policy, which took place within 60 days of the policy's inception date. The insurance affiliate would then charge back the advanced commissions that she had received. La Friniere continued to create additional fictitious policies, receive commissions and cancel the policies. During the time between the inception of a fictitious policy and La Friniere's cancellation of the policy, she had the benefit of the advanced commissions, which she used for personal expenses. The findings also stated that when the matter came to light as a result of a regular review of La Friniere's pay and her production activity transcript, which disclosed large negative commission balances that changed within a few days to large positive commission balances by month's end, an internal audit was conducted. During the audit, La Friniere admitted to the insurance affiliate that she had been writing fictitious policies on her family and friends in order to produce a positive balance for herself. The insurance affiliate reported the matter to the Michigan Office of Financial and Insurance Regulation. The insurance affiliate recovered approximately \$52,400 of the advanced commissions from La Friniere, but approximately \$12,100 has not been repaid. The findings also included that La Friniere failed to respond to FINRA requests for information and documents and failed to appear for testimony. ([FINRA Case #2011026817001](#))

Herschel Lee McFarlen (CRD #4390687, Registered Representative, Harvest, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity one month. The fine must be paid either immediately upon McFarlen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, McFarlen consented to the described sanctions and to the entry of findings that he commenced servicing accounts for a customer and the customer's daughter that were

previously serviced by another firm registered representative. The findings stated that the customer's husband requested withdrawals from the customer's account, in the aggregate amount of \$20,560. McFarlen accepted instructions from the customer's husband to make the withdrawals and submitted the withdrawal requests to the firm. The checks were issued to the customer and sent to her address of record. The findings also stated that McFarlen failed to obtain a letter of authorization or power of attorney from the customer that authorized her husband to issue instructions for her account. The customer did not authorize her husband to make the withdrawals from her account.

The suspension was in effect from October 15, 2012, through November 14, 2012. ([FINRA Case #2010023836802](#))

James Scott McKee (CRD #3222516, Registered Principal, Eugene, Oregon) was barred from association with any FINRA member in any capacity and ordered to pay a total of \$872,000, plus interest, in restitution to customers. The sanctions were based on findings that McKee knowingly made fraudulent misrepresentations and omissions to induce a series of customers of his member firms to invest in securities related to real estate ventures. The findings stated that McKee misused and converted customer funds when he induced his customers to entrust the funds to him for specific investments. Instead of investing the funds on the customers' behalf, McKee converted the money for his own personal and business purposes. The findings also included that McKee made an unsuitable investment recommendation to a customer. To make the recommendation appear suitable, McKee placed false suitability information in the customer's account documents, relating to its assets, investment objectives and risk tolerance. The customer lost its entire investment when the company in which it invested filed for bankruptcy. FINRA found that McKee failed to disclose to his firm that he held outside business activities in certain real estate ventures, and that he was actively soliciting firm customers to invest in these ventures. On an annual firm compliance questionnaire, McKee falsely answered "yes" to the question asking if he had obtained the firm's written approval for his outside business activities. FINRA had found that McKee engaged in private securities transactions without notifying or obtaining his firms' prior approval. FINRA also found that McKee failed to comply with FINRA requests for documents and information, and willfully testified falsely during a FINRA sworn on-the-record interview. ([FINRA Case #2010025217901](#))

Robert Henry Medhus (CRD #1009019, Registered Principal, Fargo, North Dakota) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Medhus consented to the described sanction and to the entry of findings that he approved transactions in real estate investments trusts (REITs) by his member firm's representatives when the firm was not authorized to conduct REIT transactions and had not applied for approval to conduct REIT transactions through its Membership Agreement with FINRA. The findings stated that FINRA had previously warned the firm and Medhus for conducting REIT transactions the firm's Membership Agreement did not authorize. The

findings also stated that Medhus filed a FOCUS Report for his firm showing that it did not have sufficient net capital to continue operating a securities business. Medhus then sent a message to the firm's representatives stating that the firm was under the minimum capital so it needed to cease business. Despite the fact that the firm was not in net capital compliance, Medhus approved securities transactions at the firm thereafter. The findings also included that Medhus failed to respond to FINRA requests for information and did not appear for an on-the-record interview. ([FINRA Case #2011027207301](#))

Joseph Allen Megow (CRD #3159905, Registered Representative, Fallbrook, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity three months. The fine must be paid either immediately upon Megow's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Megow consented to the described sanctions and to the entry of findings that he submitted a customer's VA purchase form to his firm, which Megow's supervisor returned to him due to inadequate disclosures. Megow completed an updated form that included additional comments regarding the customer's understanding of the product's cash value and associated sales charges. Megow copied the customer's signature onto this updated form from a previous document. Prior to submitting the updated form, Megow had obtained the customer's consent. The findings stated that Megow submitted VA switch/replacement forms on behalf of two firm customers who were husband and wife. Megow's supervisor returned both forms to him for clarification of the clients' understanding of the risks associated with the new product. Megow submitted updated forms for both customers. Megow revised both forms to include additional language regarding the customers' understanding of the increased risks associated with the new product. On both of these updated forms, Megow copied the customers' signatures from previous forms without the customers' knowledge. With regard to both updated forms, Megow did not discuss the changes to the forms with either of the customers.

The suspension is in effect from October 15, 2012, through January 14, 2013. ([FINRA Case #2011030046501](#))

Ryan David Moore (CRD #3208990, Registered Representative, Chattanooga, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, which includes disgorgement of \$6,750 commissions earned, and suspended from association with any FINRA member in any capacity for 12 months. The fine must be paid either immediately upon Moore's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Moore consented to the described sanctions and to the entry of findings that he sold promissory notes with an aggregate principal amount of \$135,000 to customers outside the regular

course and scope of his association with his member firm. The findings stated that Moore earned \$6,750 in commissions from the sale of the promissory notes. Moore did not provide his member firm with written notice of the transactions and because he had reason to believe the firm would not approve the transactions, he did not seek the firm's specific approval before engaging in the transactions. The findings also stated that to avoid detection by the firm, the issuer of the notes paid the commissions to Moore in cash. Moore completed an annual compliance questionnaire in which he falsely answered that he had not offered, solicited or sold any security other than those offered through or approved in writing by the firm, including without limitation, promissory notes; and he had not collected a referral fee other than through a compliance-approved program.

The suspension is in effect from October 15, 2012, through October 14, 2013. ([FINRA Case #2011028685301](#))

Thomas Homer Morrow II (CRD #2515316, Associated Person, Jupiter, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Morrow failed to register with FINRA despite functioning as a representative for a member firm. The findings stated that Morrow traded in the firm's proprietary account on the firm's behalf, sharing in the profits from his trading and causing the firm's capital requirement to increase from \$5,000 to \$100,000. The findings also stated that Morrow created and maintained the trading blotters for the firm's proprietary trading account. The findings also included that although Morrow conducted trading without oversight from the firm, his activities were controlled by the firm and was therefore, an associated person of the firm. FINRA found that Morrow failed to appear and testify at a FINRA on-the-record interview. ([FINRA Case #2008015617902](#))

Tiffany Dawn Murray (CRD #5767421, Associated Person, Clarksburg, West Virginia) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Murray's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Murray consented to the described sanctions and to the entry of findings that after her team leader had advised her that she had earned a \$200 bonus, but without ascertaining specifically how her team leader intended for a bonus to be paid to her or how to properly receive the bonus, Murray submitted a reimbursement form to her member firm claiming approximately \$200 in mileage expenses based on the purported use of her personal car for business travel. The findings stated that Murray had not actually incurred such expenses.

The suspension is in effect from November 5, 2012, through February 4, 2013. ([FINRA Case #2012031149601](#))

Fadi Nona (CRD #3260629, Registered Principal, Farmington Hills, Michigan) submitted a Letter of Acceptance Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Nona consented to the described sanction and to the entry of findings that he put \$125,000 from a customer's securities account into one of his own investment accounts, allegedly to invest the funds for the customer's benefit. After the \$125,000 was transferred to the customer's joint bank account with his deceased mother, the customer received numerous account statements in the name of Nona's outside business. These account statements identified that they were prepared for the customer, albeit his name is misspelled in the statements, they are brokerage account statements and that Fadi Nona is the Investment Representative. The statements simply identify the word REIT under the asset allocation section of the statements and set forth that the beginning account value was \$125,000. The account statements claim, among other things, that a 1 percent monthly dividend was being paid and that the investment had appreciated \$20,000 in one month. Certain of these statements also confused whether a dividend was received, paid out or deducted from the customer's alleged REIT account.

The findings also stated that Nona did not provide written disclosure of his outside business activities, or the other outside businesses he incorporated, to his member firms. Nona certified in writing to at least one of his firms that he did not have any outside business activities at a time after he had already incorporated a company. The findings also included that Nona borrowed \$40,000 from the customer contrary to the firm's policy prohibiting registered persons from borrowing funds from customers.

FINRA found that Nona caused trade tickets and/or trade confirmations pertaining to securities the customer purchased and/or sold to be marked as unsolicited when they were, in fact, solicited orders from Nona. Nona's personal handwritten notes of communications with the customer reveal that Nona solicited certain orders. As a result, Nona caused his firm to create and maintain inaccurate books and records. FINRA also found that Nona failed to respond to FINRA requests to provide documents, information and testimony regarding his handling of the customer's funds and account, and regarding other banking and investment-related activities in which he was involved. ([FINRA Case #2010024191101](#))

Rex Estrella Palarca (CRD #4337548, Registered Representative, San Francisco, California) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for six months, and ordered to pay \$2,000, plus interest, in restitution to a customer. The fine must be paid either immediately upon Palarca's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Palarca consented to the described sanctions and to the entry of findings that he engaged in excessive trading in a customer's account. The findings stated some transactions were executed at Palarca's discretion while others were transactions Palarca recommended to the customer. The

customer routinely followed Palarca's recommendations and was unable to evaluate his recommendations or exercise independent judgment due to her inexperience and lack of financial acumen. The purchases and sales that Palarca executed in the customer's account totaled approximately \$309,839.89, and Palarca earned approximately \$15,494.76 in gross commissions, which represented approximately 20 percent of his gross commissions that year; Palarca received approximately 50 percent of the gross commissions. The findings also stated that Palarca effected purchases and sales in the customer's account without obtaining the customer's written authorization to exercise discretion in her account. Palarca's member firm did not permit discretionary accounts and did not accept the customer's account as discretionary.

The suspension is in effect from November 5, 2012, through May 4, 2013. ([FINRA Case #2010022764801](#))

Susan Elizabeth Penney (CRD #1238195, Registered Representative, Oklahoma City, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Penney consented to the described sanctions and to the entry of findings that she exercised discretionary trading authority in customer brokerage accounts without prior written customer authorization. Penney did not speak with the customers on the day the trades were placed in their brokerage accounts. Penney's member firm's policies and procedures prohibited discretionary trading in customers' brokerage accounts unless for a family member, and none of the trades were made for a family member.

The suspension was in effect from November 19, 2012, through December 3, 2012. ([FINRA Case #2010025750101](#))

Brian Edward Pineau (CRD #2562832, Registered Representative, Brookline, Massachusetts) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pineau falsified customer records to obtain unwarranted commissions. The findings stated that without his customers' knowledge or consent, Pineau changed the dates of birth on their annuities applications to make it appear that they were younger than they actually were, which caused Pineau to receive an additional \$3,148 in commissions. In some instances, customers did not even qualify for the annuities that Pineau sold to them because they were older than the maximum age set by the issuers of the product involved. The findings also stated that Pineau's alterations of VA applications he submitted to his member firm caused his firm to maintain false records in contravention of its obligation to keep accurate records concerning the purchase or sale of securities. The annuity applications that Pineau altered were important documents that his firm needed to supervise his sales and that the annuity companies needed to determine whether the customers qualified for the products they purchased. The altered information, concerning the customers' birthdates, was material to the amount of commissions Pineau would receive as a result of the sales. ([FINRA Case #2011028001901](#))

Michael David Pontes (CRD #5577555, Registered Representative, Dartmouth, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pontes consented to the described sanction and to the entry of findings that he misappropriated thousands of dollars from a company that engaged him to provide bookkeeping services. The findings stated that Pontes willfully failed to amend his Form U4 to disclose the material fact that the Massachusetts Board of Registration found him to have engaged in substandard practice and dishonesty, fraud and/or gross negligence, gross misconduct and failure to conform with accounting principles in the practice of public accountancy and was suspended. ([FINRA Case #2012032930401](#))

Alissa Marie Ponzurick fka Alissa Marie Youngblood (CRD #5522792, Associated Person, Palm Beach Gardens, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ponzurick's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ponzurick consented to the described sanctions and to the entry of findings that after a co-worker advised her that they had earned a \$200 bonus, but without confirming from her team leader how she could collect the bonus, Ponzurick submitted a reimbursement form to her member firm claiming approximately \$200 in mileage expenses based on the purported use of her personal car for business travel. The findings stated that Ponzurick had not actually incurred such expenses.

The suspension is in effect from November 5, 2012, through February 4, 2013. ([FINRA Case #2012031149701](#))

Adam Robert Ritzer (CRD #1057194, Registered Principal, Westport, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Ritzer consented to the described sanctions and to the entry of findings that he failed to disclose material facts regarding a felony charge on his Form U4.

The suspension is in effect from November 19, 2012, through December 18, 2012. ([FINRA Case #2011026701701](#))

Jeffrey Jon Rummells (CRD #1441857, Registered Representative, Dyersburg, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 14 months. The fine must be paid either immediately upon Rummells' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Rummells consented to the described sanctions and to the entry of findings that

he caused his 90-year-old aunt, who was a customer of his firm, to loan on six separate occasions a total of \$625,234 to a holding company, which had financial difficulties and in which Rummells was a one-third owner. The findings stated that the firm did not permit borrowing from customers, except under limited circumstances, and only with prior firm approval. Rummells did not request his firm's approval to borrow money from his aunt in the manner required under the firm's procedures. The findings also stated that Rummells has fully repaid the loans to the customer.

The suspension is in effect from November 5, 2012, through January 4, 2014. ([FINRA Case #2010025305701](#))

Travis John Schaffer (CRD #4156552, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Schaffer consented to the described sanction and to the entry of findings that he filled out an application to add a living benefit rider to a customer's VA and reallocate the annuity's assets into different investment funds without the customer's consent. The findings stated that Schaffer forged the customer's signature on the application and submitted it for approval, and did so to generate income for himself. Schaffer's member firm approved the application, added the rider to the customer's annuity and reallocated the assets as directed in the forged application. The findings also stated that upon receiving notice of the new rider and reallocations, the customer contacted the firm to complain and the transaction was reversed. ([FINRA Case #2011030048201](#))

Paul Leslie Schlotman (CRD #5605289, Registered Representative, Richland, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity 90 days. The fine must be paid either immediately upon Schlotman's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Schlotman consented to the described sanctions and to the entry of findings that he signed an insurance customer's name to an automatic monthly payment form in connection with a pre-existing automobile insurance policy. The findings stated that although the customer verbally authorized Schlotman by telephone to sign the form, the firm's policies and procedures prohibited falsification of information and dishonesty, including forgery. In addition, on his prior annual compliance questionnaire, Schlotman had acknowledged that he understood that under no circumstances was he permitted to sign another person's name to a document. The findings also stated that Schlotman submitted an automobile insurance application on behalf of a second customer knowing that the customer's boyfriend had signed the customer's name to the application. The signature of the customer certified, among other things, that the customer had read the application and that the statements and facts contained therein were true. Although Schlotman believed that the boyfriend had been authorized to sign on the customer's behalf, that, in fact, was not the case.

The suspension is in effect from November 5, 2012, through February 2, 2013. ([FINRA Case #2011028767701](#))

Stephan Michael Schwanauer (CRD #2118187, Registered Representative, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Schwanauer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Schwanauer consented to the described sanctions and to the entry of findings that he willfully failed to disclose unsatisfied judgments against him on his Forms U4, and failed to disclose the judgments on annual disclosure forms and attestations submitted to his firm; instead, he falsely represented that he did not have any.

The suspension is in effect from November 5, 2012, through May 4, 2013. ([FINRA Case #2011026219601](#))

Stephen Louis Scotto (CRD #2547858, Registered Representative, Manhasset, New York) submitted an Offer of Settlement in which he was fined \$300,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Scotto consented to the described sanctions and to the entry of findings that he and his counterparts at other member firms, in response to commission-reduction proposals in CDSs, and unbeknownst to the customers, colluded with one another in an effort to keep the customers from obtaining CDS brokerage services at more favorable rates. The findings stated that Scotto and other broker-dealers engaged in improper communications in which they coordinated to submit similar but slightly different fee schedules to avoid the appearance of collusion. Through these communications, Scotto sought to frustrate his customers' efforts to obtain brokerage services at reflecting a *bona fide* competitive market.

The suspension was in effect from April 16, 2012, through July 15, 2012. ([FINRA Case #2006005158309](#))

Riad Shanawany (CRD #3184981, Registered Representative, Tamarac, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the findings, Shanawany consented to the described sanctions and to the entry of findings that he engaged in an outside business activity by participating in a limited liability company involved in start-up efforts for reconstruction and modernization of the Port-au-Prince airport in Haiti, and received a membership interest in the company for his participation, without providing his member firm with adequate notice of the outside business activity and membership interest.

The suspension is in effect from November 5, 2012, through December 19, 2012. ([FINRA Case #2011028407601](#))

William Speary III (CRD #2462690, Registered Representative, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Speary's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Speary consented to the described sanctions and to the entry of findings that in connection with withdrawals his customers authorized, Speary altered the dates and amounts on copies of previously executed and used annuity withdrawal forms without the customers' specific permission to do so. The findings stated that Speary then submitted the forms to the annuity company for processing.

The suspension is in effect from November 5, 2012, through January 4, 2013. ([FINRA Case #2012031068201](#))

William Gary Stapleton (CRD #2174159, Registered Principal, Fairview, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Stapleton's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Stapleton consented to the described sanctions and to the entry of findings that he acted as an unregistered principal of his member firm and performed roles as a principal of the firm without being registered in such capacity. The findings stated that although FINRA had notified Stapleton that he needed to obtain a principal license, he continued to act as an unregistered principal for more than six years before obtaining a principal license. The findings also stated that Stapleton created and distributed to the public a sales brochure that failed to provide material disclosures regarding the risks associated with investing in the oil and gas venture being promoted. The brochure contained exaggerated statements relating to tax benefits from the investment being promoted; contained misleading statements regarding investment results and the risks associated with investing in oil and gas drilling ventures; contained projections of annualized returns, yields and cash flows; and failed to disclose the name of Stapleton's firm.

The suspension is in effect from November 5, 2012, through November 4, 2013. ([FINRA Case #2009020534801](#))

James J. Stigman (CRD #4418974, Registered Representative, St. Cloud, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Stigman's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Stigman consented to the described sanction and to the entry of findings that he recommended customers invest approximately \$1 million (roughly 90 percent of their total retirement savings) in private placement, illiquid alternative investments

that exposed the customers to a risk of loss that was inconsistent with their investment objective and financial needs and condition, which was to protect retirement savings to fund retirement living expenses.

The suspension is in effect from October 15, 2012, through January 14, 2013. ([FINRA Case #2011028380201](#))

William Mitchell Tillett (CRD #1394192, Registered Representative, Delray Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Tillett's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Tillett consented to the described sanctions and to the entry of findings that he willfully failed to timely disclose material information to his member firm and FINRA. The findings stated that Tillett failed to disclose that he had been charged with the felony offense of criminal trespassing and the misdemeanor offenses of theft by unlawful taking and theft of services. The findings also stated that Tillett failed to timely file amended Forms U4 to report that the felony trespassing charge was reduced to a non-reportable summary offense for trespassing.

The suspension is in effect from October 15, 2012, through April 14, 2013. ([FINRA Case #2011027437601](#))

Tam Thanh Tran aka Tom Tran (CRD #4703139, Registered Representative, Columbia, Maryland) was barred from association with any FINRA member firm. The sanction was based on findings that Tran failed to respond to FINRA requests for documents and information. The findings stated that Tran made transfers of funds, totaling \$18,000, from the brokerage account of his elderly client in to his personal brokerage account. The findings also stated that Tran wrote letters to the customer falsely documenting the purpose of some of the transfers as personal gifts, an engagement present and for dog care. Tran submitted copies of the letters to the firm even though he knew that the letters mischaracterized the transactions. The findings also stated that Tran submitted copies of the letters to his member firm and FINRA with information and on-the-record testimony that contradicted the content of the letters and led to his termination and the filing of the complaint. The findings also included that by inserting false information into his member firm's books and records, Tran caused them to be inaccurate. ([FINRA Case #2010021580201](#))

Clyde Marshall Thornburg (CRD #1065161, Registered Principal, Riverview, Florida) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Thornburg consented to the described sanction and to the entry of findings that he engaged in a pattern of unsuitable short-term trading and switching of unit investment trusts (UITs),

corporate debt, and mutual funds in customer accounts without having reasonable grounds for believing that such recommendations were suitable in view of the size and frequency of the recommended transactions, and in light of each customer's investment objectives, circumstances, financial situations and needs. The findings stated that Thornburg's actions caused these customers to pay approximately \$332,231 in unnecessary sales charges, and the accounts had cumulative losses of approximately \$983,152. Thornburg generated gross commissions of approximately \$301,389 for his firm, of which he received a significant portion based on his member firm's percentage payout structure. The findings also stated that at the time some of the customers opened their accounts, Thornburg informed them that they would not pay costs for trading products such as UITs and other securities; these customers paid sales charges, commissions, front-end loads and other costs when they believed they were not paying such costs. Thornburg misled some customers by omitting information about the actual charges they were paying and by misrepresenting products as not having any costs when in fact they did have a charge. The findings also included that Thornburg exercised discretion in each of the accounts without prior written authorization.

FINRA found that Thornburg forged, or caused to be forged, the names of some customers or their representatives on mutual fund disclosure forms, causing his firm to maintain inaccurate books and records. FINRA also found that Thornburg provided false information about the customers' income, liquid net worth, risk tolerance and investment objectives. In addition, FINRA determined that by providing false information about the customers on the forms, by signing the names of customers or causing someone else to sign the names of customers on the forms, and by falsely representing that the customers were notified of the information contained in the disclosure forms, Thornburg caused his firm to maintain inaccurate books and records. ([FINRA Case #2009016272904](#))

Enrique Vila (CRD #3113492, Registered Representative, Key Biscayne, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Vila consented to the described sanctions and to the entry of findings that he exercised discretion in a customer's account and executed numerous trades in the account. The findings stated that although the customer authorized the use of discretion with respect to his account, Vila did not obtain the customer's written authorization and his member firm's acceptance of the account as discretionary.

The suspension was in effect from November 5, 2012, through November 26, 2012. ([FINRA Case #2012031465801](#))

Wade Mitchell Wacker (CRD #2145660, Registered Principal, Jackson, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$13,500 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Wacker consented to the described

sanctions and to the entry of findings that as part of an investment analysis and financial plan he prepared for his member firm's customer, he facilitated the opening of an account for the customer at an online broker-dealer that was not affiliated with the firm. The findings stated that Wacker subsequently bought and sold securities through that outside account for several years. During that time, the customer paid Wacker a total of \$1,500 for managing the account. Wacker did not obtain the firm's prior written approval of this activity and made inaccurate statements in response to the firm's compliance questionnaires that he completed, denying receiving compensation from persons or entities other than the firm when he had received compensation directly from the customer, and falsely stating that he had delivered all transaction documents and other items requiring approval to his supervisor or designed firm principal when he had not. The findings also stated that the customer filed a complaint with Wacker's firm concerning the options trading in his outside account. The firm resolved the complaint without Wacker's input or participation, although it did require Wacker to pay the customer a settlement amount and a \$5,000 penalty to the firm. The firm also placed Wacker on heightened supervision. The findings also included that Wacker had an indirect financial interest in some outside brokerage accounts that were established in his wife's name, one of which engaged in securities transactions. At no time did Wacker notify his firm that either of these accounts existed.

The suspension is in effect from November 19, 2012, through December 17, 2012. ([FINRA Case #2010021740701](#))

Dawn Gwen Wiley (CRD #4281923, Registered Representative, Catonsville, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity 60 days. The fine must be paid either immediately upon Wiley's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wiley consented to the described sanctions and to the entry of findings that she executed a sell order on a customer's behalf, but mistakenly placed the trade in the wrong customer's account. The findings stated that after Wiley discovered the mistake, she filled out a trade correction form and signed the name of the financial advisor, who was absent from the office, to the form. The financial advisor asked Wiley to lower the commission charged on the trade. Wiley prepared a second trade correction form, again signing the financial advisor's name to the form contrary to the firm's policies and procedures that prohibit registered associates from signing or affixing any other person's name to a document.

The suspension is in effect from November 5, 2012, through January 3, 2013. ([FINRA Case #2012030982001](#))

Thomas Gill Wilson (CRD #2848730, Registered Supervisor, Chevy Chase, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Wilson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wilson consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing his member firm with any notice of the activity. The findings stated that Wilson received approximately \$116,405 as compensation while engaged in business as a licensed real estate agent. Wilson's firm had denied his earlier request to engage in the business. The findings also stated that Wilson falsely certified to his firm that he was not engaged in any outside business activity.

The suspension is in effect from November 5, 2012, through March 4, 2013. ([FINRA Case #2012032576401](#))

Alex Lance Wittenburg (CRD #4278127, Registered Representative, North Little Rock, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Wittenburg consented to the described sanction and to the entry of findings that he failed to appear for testimony, as FINRA requested, concerning his sales of alternative investments to his member firm's customers. ([FINRA Case #2011029664001](#))

Theodore James Wolfer (CRD #2595059, Registered Principal, Wilmington, Delaware) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Wolfer consented to the described sanction and to the entry of findings that he refused to provide FINRA requested testimony in connection with its investigation regarding his possible failure to disclose unsatisfied liens. ([FINRA Case #2012032167601](#))

Louis Albert Wright (CRD #4053503, Registered Principal, Plymouth, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000, suspended from association with any FINRA member in any capacity for two years, and ordered to pay \$144,117, plus interest, in restitution to customers after settlements. The fine and restitution must be paid either immediately upon Wright's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Wright consented to the described sanctions and to the entry of findings that he made unsuitable private-placement recommendations to customers. The findings stated that Wright's sale of a highly risky investment in a startup company with no significant assets, no current cash flow and no prior operating history, was inconsistent with his customers' retirement/income needs. For the customers, the investments were unsuitable because of their age (late 50s to early 60s), health issues, moderate to

conservative risk tolerance, limited investment experience, financial resources and the need to preserve their capital during their retirements. The customers did not have any intention to return to the full-time work force and their retirement funds were needed to support them in their retirements. The findings also stated that the customers purchased \$200,000 of the private placements and lost approximately \$181,117 of their investment, for which Wright received \$16,800 in gross commissions. For some of these customers, it was a significant investment of their retirement funds.

The suspension is in effect from November 5, 2012, through November 4, 2014. ([FINRA Case #2010022142301](#))

David Scott Zullin (CRD #2910623, Registered Representative, Hopewell Junction, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Zullin consented to the described sanction and to the entry of findings that in an attempt to obtain funds from an insurance company, he submitted a false claim to his insurance company alleging that his vehicle had been stolen. The findings stated that Zullin knew that his vehicle had not been stolen. ([FINRA Case #2012031249101](#))

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of October 31, 2012. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of *Disciplinary and Other FINRA Actions*.

The Dratel Group, Inc. (CRD #8049, Southold, New York) and William Marshall Dratel (CRD #843025, Registered Principal, Southold, New York). The firm was fined a total of \$185,000 and barred from engaging in day trading. Dratel was barred from association with any FINRA member in any capacity and ordered to disgorge \$489,000 in ill-gotten gains. The sanctions were based on findings that the firm and Dratel willfully engaged in a fraudulent trading scheme (i.e., cherry-picking) and failed to disclose material information to firm discretionary customers. The findings stated that Dratel cherry-picked profitable day trades for his own account while steering unprofitable (or less profitable) day trades to his discretionary customers' accounts. Dratel's use of the firm account provided him with the opportunity to delay making trade allocations and the ability to allocate more profitable trades to himself as opposed to his discretionary customers. One year, Dratel earned profits of almost \$500,000 while his discretionary customers suffered losses from day trades of more than \$200,000. The findings also stated that the firm maintained inaccurate and misleading books and records. The firm and Dratel willfully failed to complete order tickets and in furtherance of the cherry-picking scheme, created order tickets with inaccurate allocation times. The customer names and account numbers were

not placed on the customer order tickets until several hours after the order was executed, or in cases where blank, time-stamped order tickets were mailed to the firm's office one or two days later. The findings also included that the firm's supervisory system for day trading was inadequate and failed to address the conflict inherent with Dratel's day trading for his personal account and his simultaneous day trading for the discretionary customers' accounts. Because the firm was a one-representative firm, Dratel supervised his own day trading and the trading for his discretionary customers. The firm, through Dratel, failed to enforce its WSPs. FINRA found that the firm, through Dratel, willfully failed to periodically update customer account records, review new account documents on a quarterly basis and memorialize the review. FINRA also found that the firm had a deficient AML compliance program and Dratel failed to timely verify new customers' identities. Dratel opened accounts without timely obtaining photo identification for each new customer. The firm also failed to conduct timely independent testing of its AML compliance program for two years.

The decision has been appealed to the NAC and the sanctions are not in effect pending review. ([FINRA Case #2008012925001](#))

David Kristian Evansen (CRD #1579910, Registered Representative, New Lisbon, Wisconsin) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Evansen failed to respond to a FINRA request to provide testimony. The findings stated that Evansen failed to timely respond to FINRA requests for information.

The decision has been appealed to the NAC and the sanction is not in effect pending the appeal. ([FINRA Case #2010023724601](#))

Thomas Joseph Gorter (CRD #1008601, Registered Representative, Brandenburg, Kentucky), Blair Christopher Mielke (CRD #1878222, Registered Representative, Newburgh, Indiana) and Frederick William Schultz (CRD #5239977, Registered Representative, Newburgh, Indiana) were barred from association with any FINRA member in any capacity. The sanctions were based on findings that Gorter, Mielke and Schultz engaged in private securities transactions by failing to provide their member firm with the required written notice. The findings stated that Mielke and Schultz engaged in outside business activities by operating and participating in the management of a private-placement offering without giving prompt written notice to their member firm. The findings also stated that following their firm's approval to recommend and sell the private placement to qualified investors, Gorter and Schultz did not route any of the sales or paperwork to their firm's main office, causing the firm's records to be inaccurate. The firm's books and records could not, and did not, reflect fundamental information the firm should have maintained, such as the names of the investors and the dates and amounts of the investments that firm representatives sold and processed. The findings also included that Mielke and Schultz falsely indicated on an outside business schedule that they were engaged in the planning stages of an investment group rather than already being involved in its management. FINRA found that

Schultz made withdrawals totaling \$13,504.31 of customer funds intended for investment, thereby misusing funds when he improperly distributed them as profits. FINRA also found that Mielke failed to respond completely and timely to FINRA requests for information. Gorter failed to timely appear for a FINRA on-the-record interview and failed to provide documents and information in a timely fashion. Schultz failed to attend a FINRA on-the-record interview and declined to provide testimony for more than two years.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2009019837302](#))

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

Carl Max Birkelbach (CRD #1177843, Registered Principal, Chicago, Illinois) was named a respondent in a FINRA complaint alleging that he engaged in excessive and unsuitable trading in customer accounts pursuant to his approved discretionary authority in the accounts. The trading had such extraordinarily high turnover and cost-to-equity ratios that it constituted fraud in violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint alleges that the accounts were excessive and unsuitable for the customers based on their investment objectives, financial situation and needs, and lack of knowledge and experience necessary to understand the risks associated with the recommended transactions. The customers' accounts would have had to earn anywhere from 22.97 percent to 43.67 percent just to break even. ([FINRA Case #2011025843301](#))

Wade Harlow Bradley (CRD #1557356, Registered Principal, Carlsbad, California) was named a respondent in a FINRA complaint alleging that through his firm, he offered and sold membership units in a development stage company that was created to produce a motion picture. The complaint alleges that the firm offered the entity's units on a best-efforts basis in a mini-max offering. The offering, as modified, provided that funds could not be released from the escrow account until a minimum of \$4.5 million was raised. The complaint also alleges that Bradley, acting through the firm, willfully facilitated the release of escrowed funds even though the minimum had not been raised; continued to offer and sell the entity's units even though he knew, or was reckless in not knowing, that escrowed funds had been released when the minimum had not been raised; and offered and sold the units after the termination, thereby rendering the representations in the entity's private placement memorandum (PPM) false and misleading. The complaint further alleges that

Bradley was his member firm's president and CCO, and was responsible for enforcing its WSPs. Bradley failed to ensure that the offering was terminated when the minimum had not been met, failed to provide customers with the ability to receive a refund when permission to extend the offering was sought, failed to ensure that customer funds remained in escrow until the contingencies were met or the offering was terminated, and failed to ensure that investor monies were returned when the entity's offering failed to meet its contingencies prior to the termination. ([FINRA Case #2011025780101](#))

James Douglas Grimes (CRD #4106942, Registered Principal, Lawrence, Pennsylvania) was named a respondent in a FINRA complaint alleging that he effected unauthorized money transfers totaling \$306,000 from customer accounts and transferred those funds to another customer account, without the knowledge or authorization of the owners of the accounts. Grimes effected the unauthorized transfers by submitting written journal request forms to his member firm that contained forged client signatures. The complaint alleges that Grimes wrote numerous checks totaling \$250,446, withdrawing funds from the customer's account. Most of the checks were made payable to cash. The complaint also alleges that Grimes converted all of the proceeds for his personal use. Grimes forged the signature of the owner of the account on those checks. The complaint further alleges that the firm maintained the journal request forms and the checks as part of its books and records. The documents appeared to contain genuine customer signatures but the signatures were forged. The records were therefore inaccurate. By falsifying journal requests and checks, Grimes caused the firm's books and records to be inaccurate. ([FINRA Case #2011028219201](#))

Andres H. Madero (CRD #2101826, Registered Representative, Milford, Connecticut) was named a respondent in a FINRA complaint alleging that he maintained a premium fund account (PFA) as a non-interest bearing bank account to deposit insurance premium payments received from customers, but he received funds from customers, removed them from his office and never deposited them into the PFA, thereby misappropriating the funds. The complaint alleges that Madero recorded the payments to the insurance affiliate's system, which triggered the process by which electronic funds are transferred (swept) to the affiliate. The affiliate attempted to sweep premium payments from Madero's PFA and found that there were insufficient funds in the account. On each occasion, there was a discrepancy between amounts of premium payments Madero recorded and the actual PFA balance. The failed fund transfers totaled \$28,957.89. The complaint also alleges that Madero failed to deposit additional customer payments into the PFA after the firm terminated his securities registration, but while he was still an insurance agent with the affiliate. The affiliate attempted to make another sweep from the PFA, but that transfer failed because the account was short by \$5,217.66. The total dollar shortage in Madero's PFA was \$34,170.36. The affiliate obtained reimbursement of the missing funds by withholding Madero's bonus payments. No customer insurance policies lapsed or were canceled as a result of Madero's failure to deposit premium payments into PFA. ([FINRA Case #2010025179801](#))

Mark E. Marek (CRD #4794461, Registered Representative, San Antonio, Texas) was named a respondent in a FINRA complaint alleging that he made unsuitable investment recommendations to a customer based on the customer's risk tolerance, and his investment objectives, knowledge and experience. The complaint alleges that because of implementing Marek's investment recommendations, the customer's accounts suffered trading losses of more than \$598,000. The complaint also alleges that Marek sent email correspondence to the customer in which he intentionally or recklessly made false and misleading representations regarding material facts. Marek sent the emails from his firm's email account and from personal email accounts although the firm's policies prohibited registered representatives from using personal email accounts for securities-related correspondence. Marek used instruments of communication in interstate commerce when he sent emails to the customer over wireless networks and executed transactions in the customer's accounts via national securities exchanges. Marek's false and misleading statements were intentionally designed to deceive the customer into believing that his funds had been invested conservatively, and that his investments were performing well. The complaint further alleges that Marek sent email correspondence to the customer that contained misleading, exaggerated and/or unwarranted statements and several also contained projections of investment performance. In addition, the complaint alleges that Marek signed the customer's signature on his firm's customer account document when the customer did not give Marek permission to sign his name on the document or any other document. Moreover, the complaint alleges that the customer directed Marek, via an email at his firm address, to cease all trading activity in his accounts. Later that same day, Marek, sold or caused to be sold, several shares of common stock from one of the customer's accounts without his knowledge, authorization or consent. ([FINRA Case #2009019349001](#))

Complaint Dismissed

FINRA issued the following complaint, which represented FINRA's initiation of a formal proceeding. The findings as to the allegations were not made and the Hearing Officer has subsequently ordered that the complaint be dismissed.

Richard Edward Morrison Jr. (CRD #1483661)
Chatham, New Jersey
FINRA Case #2008013863702

Firms Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320

Brookstone Securities, Inc. (CRD #13366)
Lakeland, Florida
(October 9, 2012)
FINRA Case #2009019837303

Brookstone Securities, Inc. (CRD #13366)
Lakeland, Florida
(October 16, 2012)
FINRA Case #2009016158302

Firm Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

HLM Securities, Inc. (CRD #133216)
Chicago, Illinois
(September 20, 2012 – October 23, 2012)

Individuals Barred for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Michael Allen Alexander (CRD #5020883)
Sanger, Texas
(October 22, 2012)
FINRA Case #2011028682601

Larry Diante Battiste (CRD #6015345)
Oakland, California
(October 22, 2012)
FINRA Case #2012032006401

Ignacio Andres Baigorria (CRD #5135311)
Boca Raton, Florida
(October 15, 2012)
FINRA Case #2011029420501

Jesse R. Campbell (CRD #5770956)
Pickerington, Ohio
(October 22, 2012)
FINRA Case #2012032181401

Muzette L. Charles (CRD #4474688)
Teaneck, New Jersey
(October 15, 2012)
FINRA Case #2012031532001

Keith A. Crispin (CRD #6000818)
Detroit, Michigan
(October 15, 2012)
FINRA Case #2012031040901

Christopher Matthew Cunningham (CRD #2390800)
Alexandria, Virginia
(October 22, 2012)
FINRA Case #2012031430101

Eric Martin Dishner (CRD #2330409)
New Port Richey, Florida
(October 22, 2012)
FINRA Case #2012031950601

Jaime Gavilanes (CRD #6016082)
Wichita Falls, Texas
(October 22, 2012)
FINRA Case #2012032089101

Erika M. Gutierrez (CRD #5782445)
Tyler, Texas
(October 15, 2012)
FINRA Case #2012031714701

Eric Jonathon Justin (CRD #2633979)
Lancaster, New York
(October 5, 2012)
FINRA Case #2012032045901

Jason Alan Kansier (CRD #4869834)
Portland, Oregon
(October 15, 2012)
FINRA Case #2012030876801

Ellen Therese McCormick (CRD #5690425)
Forty Fort, Pennsylvania
(October 19, 2012)
FINRA Case #2012031093801

Emma Carolina Perez (CRD #5323971)
Miami, Florida
(October 22, 2012)
FINRA Case #2011028821701

Randy Lynn Scruggs (CRD #5432450)
Christiansburg, Virginia
(October 15, 2012)
FINRA Case #2012031944301

Jose Basilio Sosa Jr. (CRD #4483629)
Miami, Florida
(October 22, 2012)
FINRA Case #2012031673201

Elizabeth Vinessa Veloz (CRD #1864601)
Fair Lawn, New Jersey
(October 22, 2012)
FINRA Case #2012031963501

Robert Garth Wolliston aka Robert Walliston (CRD #4874232)
Royal Palm Beach, Florida
(October 19, 2012)
FINRA Case #2011029907301

Individuals Revoked for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320
(If the revocation has been rescinded, the date follows the revocation date.)

David William Locy (CRD #4682865)
Overland Park, Kansas
(October 9, 2012)
FINRA Case #2009019837303

Astrid Sylvia Reinis (CRD #2193464)
Anaheim, California
(October 4 2012)
FINRA Case #2010023882101

Thomas Lauren Salway (CRD #2408604)
Henderson, Nevada
(October 11, 2012)
FINRA Case #2010023439901

Individuals Suspended for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(d)
(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Evan Christopher Alexander (CRD #6044480)
Spring, Texas
(October 22, 2012)
FINRA Case #2012032881601

Ronald Gene Anglin (CRD #3171868)
Canyon Country, California
(October 19, 2012)
FINRA Case #2011028012601

Sallee Jo Barnett (CRD #3132151)
Evansville, Indiana
(October 19, 2012)
FINRA Case #2012032649901

Harold Edwin Bissett Jr. (CRD #858422)
New Bern, North Carolina
(October 22, 2012)
FINRA Case #2012032495001

Sohrab H. Chowdhury (CRD #4887352)
Woodside, New York
(October 22, 2012)
FINRA Case #2012032712101

Jaime Andres Diaz (CRD #4298373)
 New York, New York
 (October 8, 2012)
 FINRA Case #2011029545901

Daniel Jay Hixson (CRD #4947969)
 Saint George, Utah
 (October 22, 2012)
 FINRA Case #2012032726401

Joseph Michael Keegan (CRD #5494745)
 Delanco, New Jersey
 (October 22, 2012 – November 26, 2012)
 FINRA Case #2012033201401

Donna Lee Kwiitek (CRD #4741352)
 Deer Park, Washington
 (October 19, 2012)
 FINRA Case #2012032666701

Neina A. Manning-Frazer (CRD #6015714)
 Brooklyn, New York
 (October 22, 2012)
 FINRA Case #2012033106001

Donnie L. McMillan Jr. (CRD #5735158)
 Bronx, New York
 (October 25, 2012)
 FINRA Case #2011026968901

Mark Darren Morrow (CRD #1708880)
 Cincinnati, Ohio
 (October 15, 2012)
 FINRA Case #2012033425101

Ryan Willis (CRD #6024427)
 Ballwin, Missouri
 (October 19, 2012)
 FINRA Case #2012032117901

A. Wilson Woolf (CRD #2053994)
 Bethlehem, Pennsylvania
 (October 18, 2012)
 FINRA Case #2012031544201

Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule 9554

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Jeffrey Richard Bello (CRD #4393605)
 Merrick, New York
 (October 10, 2012 – October 18, 2012)
 FINRA Arbitration Case #05-00087

Burnis Torrell Brown (CRD #1954593)
 Chicago, Illinois
 (October 24, 2005 – October 3, 2012)
 FINRA Arbitration Case #04-04623

Stacey Lynn Haddock (CRD #3274159)
 Oklahoma City, Oklahoma
 (October 10, 2012)
 FINRA Arbitration Case #09-05756

Larry Scott Kurschner (CRD #2935896)
 San Diego, California
 (March 29, 2012 – October 17, 2012)
 FINRA Arbitration Case #10-05473

Victoria Genine Montano (CRD #1465202)
 Santa Ana, California
 (April 13, 1998 – October 11, 2012)
 FINRA Arbitration Case #95-04735

Neal Seth Smalbach (CRD #1459854)
 Palm Harbor, Florida
 (October 3, 2012)
 FINRA Arbitration Case #10-00863

Jonathan J. Tuoti (CRD #5335673)
 Gilbert, Arizona
 (October 3, 2012)
 FINRA Arbitration Case #11-04072

FINRA Fines Guggenheim Securities \$800,000 for Failing to Supervise CDO Traders; Two Traders Sanctioned for Efforts to Hide Loss

The Financial Industry Regulatory Authority (FINRA) announced that it has fined [Guggenheim Securities, LLC](#) of New York \$800,000 for failing to supervise two collateralized debt obligation (CDO) traders who engaged in activities to hide a trading loss. FINRA sanctioned the two traders: [Alexander Rekeda](#), the former head of Guggenheim's CDO Desk, was suspended for one year and fined \$50,000; [Timothy Day](#), a trader on Guggenheim's CDO Desk, was suspended for four months and fined \$20,000.

Brad Bennett, FINRA's Vice President and Chief of Enforcement, said, "Guggenheim's inadequate supervision allowed their traders to engage in extensive and repeated inappropriate actions to try to conceal a trading loss. The traders deceived their customer and supported their scheme through the use of inaccurate books and records, all of which went undetected by the firm."

In October 2008, as the result of a failed trade, Guggenheim's CDO Desk acquired a €5,000,000 junk-rated tranche of a collateralized loan obligation (CLO). After unsuccessful attempts by Guggenheim's CDO Desk to sell the position, Rekeda and Day persuaded a hedge fund customer to purchase the CLO for \$950,000 more than it had previously agreed to pay by falsely presenting the CLO as part of a package of securities a third party offered for sale. FINRA found that in an attempt to hide the trading loss on the CLO position, the traders provided the customer with order tickets that increased the price for the CLO position and decreased the price of the other positions that were part of the transaction. When the customer inquired about the pricing adjustments, Day, at Rekeda's direction, lied and said a third-party seller of the CLO position had already settled the trade at a higher price and requested the customer pay this higher price. The customer agreed to overpay for the CLO and in return, Day and Rekeda agreed to compensate the customer through other transactions, including pricing adjustments on six other CLO trades, a waiver of fees the customer owed in connection with securitization transactions, and a cash payment to the customer. The records created to document the transactions did not indicate any connection to the overpayment for the CLO.

FINRA found Guggenheim failed to conduct adequate review of the CDO Desk's trades, documentation concerning transactions by traders on the desk, and the traders' email communications.

In concluding the settlement, Guggenheim, Rekeda, and Day neither admitted nor denied the charges, but consented to the entry of FINRA's findings. As part of the settlement, Guggenheim must retain an independent consultant to review and make recommendations concerning the adequacy of its supervisory procedures.

Rekeda's suspension is in effect from October 15, 2012, through October 14, 2013. Day's suspension is in effect from October 15, 2012, through February 14, 2013.

FINRA Expels EKN Financial Services for Defying SEC Order and For Numerous Compliance Violations

CEO Barred; Former President Fined and Suspended

The Financial Industry Regulatory Authority (FINRA) announced that it has expelled EKN Financial Services, Inc. of Melville, NY, for numerous compliance violations and for allowing its CEO, Anthony Ottimo, to act as a supervisor after being barred from acting in that capacity by the Securities and Exchange Commission (SEC) in June 2008. FINRA barred Ottimo from the securities industry and barred the firm's former President, Thomas Giugliano, from acting in a principal capacity, suspended him from the securities industry for one year and fined him \$150,000. EKN, through Ottimo and Giugliano, also violated numerous NASD/FINRA and SEC rules and federal securities laws, including anti-money laundering (AML) violations, net capital deficiencies and widespread reporting failures.

FINRA found that from 2008 through 2011, Ottimo acted in a supervisory role despite an SEC order that barred him from associating with any broker or dealer in a supervisory capacity, and acted as CEO despite not being registered as a principal. During the relevant period, EKN and Giugliano repeatedly misrepresented to FINRA that Ottimo was no longer acting as EKN's CEO, as a principal or as a supervisor. In 2011, EKN lied to FINRA examiners, reporting that since 2008, it had "never filled" the CEO position when, in fact, FINRA's investigation revealed that EKN's own documents indicated that from 2008 through 2011, Ottimo was listed as EKN's CEO and was operating in that capacity. As CEO, Ottimo supervised other EKN personnel, negotiated and executed agreements, controlled its finances, retained signatory authority over its bank accounts, and represented himself as EKN's CEO to its clearing firm and other third parties.

In addition, FINRA found that EKN, Ottimo and Giugliano, who was aware of EKN and Ottimo's regulatory violations, committed numerous AML violations, including failing to establish an adequate AML compliance program to detect and report suspicious activity. For instance, EKN customers attempted to inject several hundred million dollars of bogus bonds into the U.S. financial system, but the firm failed to detect "red flags" suggesting possible suspicious activity. Moreover, EKN failed to meet minimum net capital requirements during certain periods from September 2008 to November 2010, and also prepared inaccurate net capital computations, failed to accurately report its net capital deficiencies to the SEC and FINRA, and failed to accurately record expenses and liabilities in its books and records. EKN also failed to report to FINRA, which would have made this information publicly available through FINRA BrokerCheck®, that Ottimo and Giugliano each had hundreds of thousands of dollars in unsatisfied judgments and liens.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "EKN, Ottimo and Giugliano's defiance of an SEC order and subsequent lies to regulators were nothing short of brazen. In addition to hiding the fact from regulators that Ottimo was acting

as CEO, the firm was also fully aware they had significant AML problems and net capital deficiencies, yet completely ignored any sense of responsibility to follow securities rules and laws.”

In settling [this matter](#), EKN, Ottimo and Giugliano neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.

Guiliano’s suspension is in effect from November 5, 2012, through November 4, 2013.

FINRA Sanctions David Lerner Associates \$14 Million for Unfair Practices in Sale of Apple REIT Ten and for Charging Excessive Markups on Municipal Bonds and CMOs

Customers to Receive Approximately \$12 Million in Restitution

Firm Fined \$2.3 Million; President and Head Trader Fined and Suspended

The Financial Industry Regulatory Authority (FINRA) announced that it has ordered David Lerner Associates, Inc. (DLA) of Syosset, NY, to pay approximately \$12 million in restitution to affected customers who purchased shares in Apple REIT Ten, a non-traded \$2 billion Real Estate Investment Trust (REIT) DLA sold, and to customers who were charged excessive markups. As the sole distributor of the Apple REITs, DLA solicited thousands of customers, targeting unsophisticated investors and the elderly, selling the illiquid REIT without performing adequate due diligence to determine whether it was suitable for investors. To sell Apple REIT Ten, DLA also used misleading marketing materials that presented performance results for the closed Apple REITs without disclosing to customers that income from those REITs was insufficient to support the distributions to unit owners. FINRA also fined DLA more than \$2.3 million for charging unfair prices on municipal bonds and collateralized mortgage obligations (CMOs) it sold over a 30 month period, and for related supervisory violations.

In addition, FINRA fined David Lerner, DLA’s founder, President and CEO, \$250,000, and suspended him for one year from the securities industry, followed by a two-year suspension from acting as a principal. David Lerner personally made false claims regarding the investment returns, market values, and performance and prospects of the Apple REITs at numerous DLA investment seminars and in letters to customers. To encourage sales of Apple REIT Ten and discourage redemptions of shares of the closed REITs, he characterized the Apple REITs as, for example, a “fabulous cash cow” or a “gold mine,” and he made unfounded predictions regarding a merger and public listing of the closed Apple REITs, which he inappropriately claimed would result in a “windfall” to investors.

FINRA also sanctioned DLA's Head Trader, William Mason, \$200,000, and suspended him for six months from the securities industry for his role in charging excessive muni and CMO markups. The sanctions resolve a [May 2011 complaint](#) (amended in December 2011) as well as an earlier action in which a FINRA hearing panel found that the firm and Mason charged excessive muni and CMO markups.

Susan Axelrod, Executive Vice President of Member Regulation Sales Practice, said, "This case stands for the proposition that senior officers of firms, even at the CEO level, will be held accountable for systemic, detrimental harm to customers. Protection of the investing public remains the most important goal of the examination and enforcement teams throughout the country."

Brad Bennett, Executive Vice President and Chief of Enforcement, said, "David Lerner and his firm targeted unsophisticated and elderly customers, grossly failing to comply with basic standards of suitability in selling Apple REIT Ten to thousands of customers. Firms must conduct a thorough suitability analysis before selling products, and make accurate disclosure of risks and features at the point of sale, especially with alternative investments such as non-traded REITs."

FINRA also required DLA to retain independent consultants to review and propose changes to its supervisory systems and training on both sales of non-traded REITs and pricing of CMOs and municipal bonds. In addition, DLA agreed to revise its advertising procedures, including videotaping sales seminars attended by 50 or more people for three years, and is required for one year to pre-file all advertisements and sales literature with FINRA at least 10 days prior to use.

In concluding [this settlement](#), DLA and David Lerner neither admitted nor denied the charges, but consented to the entry of FINRA's findings. The settlement will also result in a hearing panel decision against the firm and Mason related to excessive muni and CMO markups becoming final.

Lerner's suspension in all capacities is from November 19, 2012, through November 18, 2013, and his suspension in any principal capacity will be in effect from November 19, 2013, through November 18, 2015. Mason's suspension is in effect from December 17, 2012, through June 16, 2013.